

930778

R. PARSONS
AFFIDAVIT

MILWAUKEE DIE
CASTING CO. et al,

V.

No. 93-C-0325

Defendants.

Robert Parsons, being duly sworn on oath and under penalty of perjury, states as follows:

1. I am an environmental and engineering consultant and a partner in O'Shea, Parsons and Associates, Inc., a firm that specializes in engineering and environmental services. I am a registered professional engineer licensed in Wisconsin and 21 other states. Prior to the establishment of O'Shea, Parsons and Associates, I served as Vice President and Midwest Regional Manager for Harding Lawson Associates, a nationwide environmental consulting firm. I have over nineteen years experience in environmental engineering and have been engaged in numerous projects including investigation, evaluation, assessment and remediation activities at various CERCLA facilities.
2. Since being retained by Slyman Industries and Theresa Slyman, I have reviewed and evaluated numerous documents concerning the use and disposal of fluids

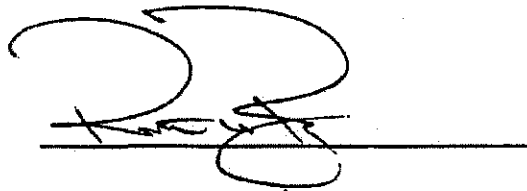
containing PCBs at the Milwaukee Die Casting Company ("MDCC") facility located in Milwaukee, Wisconsin. I have also reviewed and evaluated tests, reports and other data compiled by SEC Donahue Inc. and Rust Environment and Infrastructure, Inc. revealing the presence of PCBs at the facility.

3. One of the purposes in my reviewing this information was to investigate, assess, and evaluate the extent of the PCB contamination already identified at the MDCC facility and to recommend future appropriate activities consistent with the National Contingency Plan.
4. Based upon my investigation and analysis thus far, I have recommended to Mrs. Slyman and Slyman Industries that further investigation of the extent of the presence of PCB's on the exterior of the MDCC plant be commenced immediately. O'Shea, Parsons & Associates will conduct that investigation. I have advised my clients that these additional response costs are estimated to total approximately \$9,770.00.
5. I have received payments from both Theresa Slyman and Slyman Industries for my above-described investigation, evaluation and assessment of the PCB contamination at the MDCC facility. To date, Theresa Slyman has paid me \$3,660.00 and Slyman Industries has paid me \$6,600.00 incident to my investigation, assessment and analysis of the PCB contamination problem.

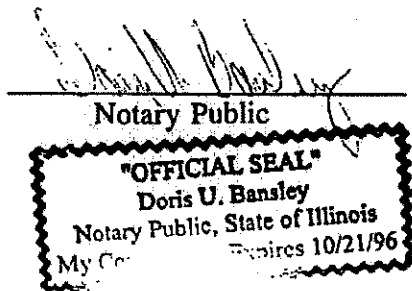
6. There will be additional future costs for investigation, evaluation, assessment and remedial activities and associated costs which will not be identified until completion of the initial response activities. My understanding is that Theresa Slyman and Slyman Industries will be sharing in the payment of these various response costs.

FURTHER AFFIANT SAYETH NOT.

Robert Parsons



Subscribed and Sworn to
before me this 9th day of
March, 1995.



G. SLYMAN
AFFIDAVIT

MILWAUKEE DIE
CASTING CO. et al,

v.

No. 93-C-0325

**FISHER CONTROLS
INTERNATIONAL, INC.**

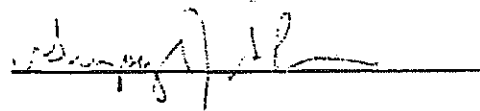
Greg Slyman, being duly sworn on oath, and under penalty of perjury, states as follows:

1. I am currently and have been for the past two years the Vice President of Slyman Industries, Inc., a Delaware Corporation with its principal place of business at 800 West Liberty Street, Medina, Ohio 44256.
2. In 1982, Slyman Industries purchased the stock of Milwaukee Die Casting Company ("MDCC") from Fisher Controls International, Inc.
3. Through its attorneys at Foran & Schultz, Slyman Industries has retained Robert Parsons of O'Shea, Parsons and Associates, an environmental and engineering consultant. Mr. Parsons has undertaken an investigation and evaluation of the PCB contamination problem at the MDCC facility.

4. To date, Slyman Industries has paid O'Shea, Parsons and Associates \$6,600 for its above-described services. Copies of checks made payable to O'Shea, Parsons and Associates are attached to this affidavit as Exhibit A.
5. Slyman Industries anticipates paying more fees to O'Shea, Parsons and Associates in the future since Mr. Robert Parsons has estimated that additional investigation and assessment of the PCB problem will cost approximately \$9,770.00. Slyman Industries intends to share (along with MDCC and Theresa Slyman) in the expenses for such testing.

FURTHER AFFIANT SAYETH NOT.

Gregory Slyman



Subscribed and Sworn
to before me this 10th
day of March, 1995.



Notary Public
ROBERT E. MOELLER
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. AUG. 29, 1998

1344

SLYMAN INDUSTRIES, INC.
7429 W. GRAND AVE.
ELMWOOD PARK, IL 60835

1-3-1995 20-2100/710

PAY TO THE ORDER OF O'SHEA, PARSONS & ASSOCIATES INC \$ 5,000.00
FIVE THOUSAND AND 00/100 DOLLARS

FIRST SECURITY TRUST AND SAVINGS BANK
7318 WEST GRAND AVENUE
ELMWOOD PARK, ILLINOIS

FOR MILWAUKEE DIE CASTING CO.

J. Richter

O'SHEA, PARSONS & ASSOCIATES, INC.
P.O. BOX 1074
ELMHURST, IL 60125

2-18/710

DEPOSIT TICKET DATE January 6 1995
DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

CURRENCY		
COIN		
TOTAL CHECKS	5000	00
TOTAL	5000	00

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement.

 **Michigan Avenue National Bank**
A First Colonial Bank
30 North Michigan Avenue Chicago, Illinois 60602 312/941-1000

M31

EXHIBIT

A

ALL-STATE® INTERNATIONAL

O'SHEA, PARSONS & ASSOCIATES, INC.

P.O. BOX 1074
ELMHURST, IL 60128

2-25/713

DEPOSIT TICKET

DATE FEB 27 1995
DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

CURRENCY		
COIN		
TOTAL CHECKS	1600	00
TOTAL	1600	00

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement.

 **Michigan Avenue National Bank**
A First Colonial Bank
20 West 1st Michigan Avenue Chicago, Illinois 60602 312/541-1000

M31

1378

SLYMAN INDUSTRIES, INC.

7429 W. GRAND AVE.
ELMWOOD PARK, IL 60635

70-2198/718

PAY
TO THE
ORDER OF

O'SHEA, PARSONS & ASSOC.
2-23-95 \$ 1,600.00
ONE THOUSAND SIX HUNDRED AND 00/100 DOLLARS

FIRST SECURITY TRUST AND SAVINGS BANK

7315 WEST GRAND AVENUE
ELMWOOD PARK, ILLINOIS

FOR

FOR THERESA SLYMAN


SLYMAN INDUSTRIES, INC.
7425 W. GRAND AVE.
ELMWOOD PARK, IL 60835

1-3-1995 20-2188/718

PAY TO THE ORDER OF O'SHEA, PARSONS & ASSOCIATES INC \$ 5,000.00
FIVE THOUSAND AND 00/100 DOLLARS

FIRST SECURITY TRUST AND SAVINGS BANK
7316 WEST GRAND AVENUE
ELMWOOD PARK, ILLINOIS

FOR MILWAUKEE DIE CASTING CO.

J. Richter

O'SHEA, PARSONS & ASSOCIATES, INC.
P.O. BOX 1074
ELMHURST, IL 60128

2-36/710

DEPOSIT TICKET DATE January 6, 1995
DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWALS

CURRENCY		
COIN		
TOTAL CHECKS	5000	00
TOTAL	5000	00

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement.



Michigan Avenue National Bank
A First Colonial Bank
20 North Michigan Avenue Chicago, Illinois 60602 312/541-1000

M31

O'SHEA, PARSONS & ASSOCIATES, INC.

P.O. BOX 1074
ELMHURST, IL 60126

2-28/710

DEPOSIT TICKET

DATE Feb 27 19 95
DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

CURRENCY		
COIN		
TOTAL CHECKS	1600	00
TOTAL	1600	00

Checks and other items
are received for deposit
subject to the provisions
of the Uniform
Commercial Code or
any applicable collec-
tion agreement.

Michigan Avenue National Bank

A First Colonial Bank

30 North Michigan Avenue CHICAGO, Illinois 60602 312/541-1000

M31

1378

SLYMAN INDUSTRIES, INC.

7429 W. GRAND AVE.
ELMWOOD PARK, IL 60635

70-2156/710

PAY
TO THE
ORDER OFO'SHEA, PARSONS & ASSOC.2.23.1995 \$ 1,600.00ONE THOUSAND SIX HUNDRED AND 00/100

DOLLARS

FIRST SECURITY TRUST AND SAVINGS BANK

7315 WEST GRAND AVENUE
ELMWOOD PARK, ILLINOIS

FOR

FOR THERESA SLYMAN

TOTAL P.06

T. STMAN
AFFIDAVIT

Defendants.

))))))))))

No. 93-C-0325

AFFIDAVIT OF THERESA SLYMAN

Theresa Slyman, being duly sworn on oath, and under penalty of perjury, states as follows:

1. I am a resident of [REDACTED]. I am currently and have been since 1982 the owner of the real property of Milwaukee Die Casting Company ("MDCC") located at 4132 N. Holton Street, Milwaukee, Wisconsin.
2. I purchased the real property of MDCC from Fisher Controls International, Inc. in 1982.
3. Through my attorneys at Foran & Schultz, I have retained Robert Parsons of O'Shea, Parsons and Associates. Mr. Parsons has undertaken an investigation and evaluation of the extent of the PCB contamination problem at the MDCC facility.
4. To date, I have paid Mr. Parsons \$3,660.00 for his services. Copies of the checks are attached to this affidavit as Exhibit A.

5. I anticipate paying more fees to O'Shea, Parsons and Associates in the future since I have approved Mr. Parsons recent recommendation that his firm conduct further investigations into the PCB problem and recommend an appropriate remediation plan. Mr. Parsons has informed me that further investigation and analysis will cost approximately \$9,770.00.

FURTHER AFFIANT SAYETH NOT.

Theresa Slyman

Theresa Slyman

Subscribed and Sworn to
before me this 9th day
of March, 1995.

Deborah H. Boardman
Notary Public
Madison County, State of Ohio
My Commission Exp. 6/28/98



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MILWAUKEE DIE CASTING
CO., et al.,

Plaintiffs,

vs.

FISHER CONTROLS
INTERNATIONAL, INC.,

Defendant.

No. 93-C-0325

DEPOSITION OF JAMES H. BOYD

taken before Mary E. Button, Certified Shorthand Reporter, at
the offices of Fisher Controls, 205 South Center Street,
Marshalltown, Iowa 50158; commencing at or about 12:30 p.m.,
January 4, 1995.

A P P E A R A N C E S

For the Plaintiffs

CARMEN D. CARUSO
Foran & Schultz
30 North LaSalle Street, Suite 3000
Chicago, IL 60602

For the Defendant

ANDREW R. RUNNING
Kirkland & Ellis
200 East Randolph Drive
Chicago, IL 60601

Also Present: Greg Slyman

Original

A. Was Fisher Governor Company.

Q. Governor Company. And when did it become Fisher Controls?

A. I think that occurred at about the time of Monsanto's acquisition of Fisher, which, again, I believe was 1969.

Q. Had there been any change in the ownership of the company from 1938 to 1969 that you are aware of other than individual stock transactions which may have occurred?

A. I believe not.

Q. Okay. Now, there did come a point in time when you became a vice-president of manufacturing for Fisher Controls. Is that correct?

A. Yes.

Q. When did you become the vice-president of manufacturing?

A. I can't name a date. I think it would have been sometime in the late 1950's. I might add to that that I moved from the engineering department into the manufacturing; held titles of manager of inventory control and subsequently manager of manufacturing operations, and then beyond that the title of vice-president, manufacturing.

Q. So your positions as manager came before the vice-presidency of manufacturing?

A. Yes.

Q. And for how long-- Strike that. Maybe a better way

Q. What was the reason for your transfer to St. Louis?

A. Ed Bauer, who headed the Fisher operation under Monsanto, felt that I could bring to their St. Louis offices some awareness of the Fisher operation that would be helpful to them in the ongoing control and operation of Fisher.

Q. Sure. Could you spell Mr. Bauer's name?

A. B-A-U-E-R.

Q. B-A-U-E-R.

A. Now deceased.

Q. So it's Ed Bauer?

A. Right.

Q. Who is deceased?

A. E.S. were his initials.

Q. Okay. As a vice-president of Fisher, were you an officer of the company?

A. To the degree that a vice-president is an officer of the company.

Q. Well, to your knowledge, were you considered an officer of the company by Fisher?

A. Yes.

Q. Did you ever become a director of Fisher?

A. Yes.

Q. When did you become a director of Fisher?

A. I can't name a date. I would think that it might have been about 1958. That information can be derived if it's of any

1 significance.

2 Q. Sure. When you became a director, did you remain a
3 director for the duration of the period of your employment at
4 Fisher through 1980, approximately?

5 A. Until the-- Until the acquisition of Fisher by
6 Monsanto, and continuing beyond that. I'm sorry I can't answer
7 that more definitely, but you realize that my retirement was in
8 1980, which is 14 years ago, and these things were some years
9 before that.

10 Q. I realize that.

11 A. And my memory is not that good.

12 Q. Well, that raises a point then. If at any point in
13 the deposition you simply don't remember, I would ask you to
14 just tell us that you don't remember--

15 A. I will.

16 Q. --as opposed to guessing or speculating as to what may
17 have been, because I am aware that this does go back pretty far.

18 A. Right.

19 Q. Now--

20 MR. RUNNING: Off the record.

21 (There was a conversation off the record.)

22 Q. To resume, in the period following Monsanto's
23 acquisition of the company, which I believe you said was in
24 1969; right?

25 A. I believe that's right.

Q. And what was your involvement?

A. As such equipment recommendations were offered, I would have reviewed them with the Milwaukee Die Casting people so that I would have been aware of their intent and the reason for their recommendation, and would have been involved, then, in the further advancement of that request to the authorizing agencies.

And I'm not sure specifically at what level that would have gone to the Fisher board, and any degree to which that might have gone beyond Fisher for Monsanto approval. Understand I say I do not recall that.

Q. I understand. So, the request would come to you, and if you agreed with the request, you would advance it to the next level. Is that correct?

A. Yes.

Q. And if you disagreed with the request, would it stop with you or would you submit your disagreement to the higher level?

MR. RUNNING: Objection. It assumes he ever disagreed with any request from Milwaukee management.

MR. CARUSO: That's a valid objection.

Q. Can you think of a situation-- Can you recall a situation where you ever disagreed with the recommendations that came from Milwaukee Die Casting?

A. I do not recall specifically any consideration of

those recommendations and their advancement beyond that that I've already described to you.

Q. Then in the other situation when you would agree with the recommendation from Milwaukee Die Casting and it was time for you to submit the request to the next level in the chain of approval, could you tell us the name of the person that you would submit the request to?

A. I cannot recall that. I could speculate again, but--

Q. No, don't speculate.

A. I can't answer you.

Q. Do you know the position that the person occupied?

A. Again, since I can't name the person, I can't name the position.

Q. Do you know if the person worked for Fisher as opposed to Monsanto?

A. The consideration would have been within Fisher unless there was some specific reason for a request to be considered by someone within the Monsanto organization. And so far as I can recall, the only point of any discussion within Monsanto would have been with Mr. Bauer in his relationship and responsibility for Fisher.

Q. Do you recall having discussions with Mr. Bauer from time to time concerning capital acquisitions by Milwaukee Die Casting?

A. This long ago, I do not.

Q. Do you recall instances when capital acquisitions for Milwaukee Die Casting were discussed or reviewed by the Fisher board of directors?

A. I do not.

Q. So you don't recall whether it was standard for the Fisher board of directors to review these acquisitions?

MR. RUNNING: Objection; it assumes that the same procedure is used regardless of the amount of the capital request.

A. And, in any event, after this period of time I could only speculate.

Q. Okay. Let me go back. We may come back to this topic, but I want to go back and get into the beginning of the relationship between Fisher and Milwaukee Die. When do you recall the first time, or in general what is your first recollection of the subject of acquiring Milwaukee Die? Do you have a recollection of how this topic came up?

A. In a general way, I became aware, in behalf of Fisher, that the ownership of Milwaukee Die was looking to a way to invest themselves of their investment there and that, based upon that awareness of their intent and aware of the importance to Fisher of Milwaukee Die as a vendor, became concerned that the ownership of Milwaukee Die might pass to someone whose ownership was detrimental to the Fisher procurement that had been favorable under the then existing Milwaukee Die ownership.

Q. Who was the previous owner of Milwaukee Die, do you remember?

A. The person that we knew with whom we dealt basically as Fred Schrader. What breadth of ownership within the Schrader family or elsewhere existed, I don't know. I think that, so far as we were concerned, he was Milwaukee Die Casting Company.

Q. And how long had Fred Schrader been Milwaukee Die Casting Company as of 1975?

A. I don't know. He had been-- He'd been Milwaukee Die Casting Company, shall we say, to Fisher for a long while before that. I would hazard a guess of 20 years, but that, again, is a speculation.

Q. How long had Fisher been a customer of Milwaukee Die Casting as of 1975?

A. I can't answer that question, either, but it certainly was for a number of years. It was not a short-term relationship.

Q. In your position in the manufacturing, after you left engineering and became manufacturing, did you become aware of the various vendors to Fisher?

A. Yes.

Q. And at the time you entered manufacturing, was Milwaukee Die Casting a vendor to Fisher?

A. Yes.

Q. So that takes us back into the 1950's; right?

A. Yes.

Q. And it could have been earlier than that; you just don't know before you entered manufacturing. Right?

A. That's right.

Q. Was Milwaukee Die Casting a vendor to Fisher continuously from the point you entered manufacturing until the point that -- until 1975?

A. Yes.

Q. How many other die casting companies were vendors to Fisher during this lengthy time period?

A. I don't know other than to say several.

Q. Was Milwaukee Die Casting the largest die casting vendor to Fisher?

A. I cannot answer that positively, either. I know that at a point in time I believe we speculated that -- well, more than a speculation -- that approximately 50 percent of Fisher's die casting requirements came from Milwaukee Die, and that, in turn, was not as high a percentage as that of Milwaukee Die's production.

Q. Did that 50 percent remain relatively constant over the decade of the 1960's and early seventies?

A. I don't know.

Q. Was the 50 percent figure a number that was estimated or calculated in the 1970's after you learned that Fred Schrader

and his family wanted to sell?

A. That number was developed in the course of considering that acquisition.

Q. As you were considering the importance of Milwaukee Die to Fisher?

A. Yes.

Q. After Milwaukee Die, do you recall the die casting company that was the next largest vendor to Fisher during that time period?

A. I cannot answer that question positively. Kiowa Corporation here in Marshalltown was also a substantial supplier, but I couldn't say that they would be second.

Q. Was there any other die casting company that was a large one at the time?

A. There was indeed, but, again, my memory back that many years does not produce a name.

Q. Sure. Now, prior to the time that Fisher made its acquisition of Milwaukee Die -- and we'll get into the terms of that in a few minutes -- are you aware of any other companies that Fisher had acquired?

A. In a general way, yes. We acquired a small instrument company many years ago whose name I can't even relate to you now. We acquired a manufacturer of a specific ball valve a number of years ago.

Q. Were these acquisitions prior to the Milwaukee Die

1 MR. RUNNING: Is this a new exhibit?

2 MR. CARUSO: That's Exhibit 218.

3 MR. RUNNING: This wasn't marked before today?

4 MR. CARUSO: No. Nothing I have has been marked
5 before today.

6 MR. RUNNING: Do you have a copy?

7 MR. CARUSO: I don't have any extra copies.

8 MR. RUNNING: Why don't we state the Bates numbers on
9 the record. No. 218 is MDC 5906 through 5907.

10 Q. It's fair to say that you recommended to Fisher and to
11 Monsanto that Fisher acquire Milwaukee Die?

12 A. Yes.

13 Q. Okay. Let me show you Exhibit 219. Can you identify
14 Exhibit 219? And I'd ask you to take a minute to read it and
15 refresh yourself with it. I'm sorry, counsel had asked me to
16 read the Bates number and I forgot to do that.

17 MR. RUNNING: For the record, it's MDC 4930.

18 A. I have read the letter. Again, obviously going back
19 to 1974, I don't remember it, although obviously it is of my
20 origin.

21 Q. Do you recognize your signature?

22 A. Yes.

23 Q. Okay. Sitting here today, can you tell us whether
24 that letter which you sent to Monsanto is an accurate summary of
25 the reasons why the acquisition of Milwaukee Die Casting was

1 important to Fisher?

2 A. I believe the statements made in there are -- were
3 logical and are logical.

4 Q. And apparently Fisher and Monsanto agreed with you,
5 correct, because the acquisition was completed?

6 A. Well, the easy answer is yes, they did. There was
7 some-- I was smiling because there were obviously further
8 discussions along the way.

9 Q. Internal discussions?

10 A. That's right.

11 Q. At Fisher and Monsanto?

12 A. Right.

13 Q. But the basic point of your letter that it was
14 important for Fisher to preserve Milwaukee Die Casting as a
15 supplier and that the importance of that vendor relationship
16 meant that Fisher should acquire Milwaukee Die, that point
17 remained unchanged. Right?

18 A. Yes.

19 Q. Did you, in the course of the acquisition, perform any
20 of the financial analysis of Milwaukee Die Casting for the
21 purpose of due diligence on the part of Fisher?

22 A. No, I did not directly.

23 Q. Were there others in the Fisher company that did that?

24 A. Our financial group under Mr. Leban would have been
25 responsible for that.

President of the new Milwaukee Die Casting Company, Incorporated Delaware?

A. I was aware of that appointment. I could not have dated the date.

Q. Let me show you Exhibit 227, which is Bates stamp numbers MDC 892 through 894 and see if it refreshes your recollection about any of this.

A. I observe the documents and the signatures and the names, all of which are familiar and known to me other than -- the name Ehlers. I don't recognize the placement of that gentleman. He's listed as assistant secretary there.

Q. Does that document refresh your recollection as to his appointment as president of the new Milwaukee Die Casting Company?

A. Well, only that this document so decrees. I can't say at--

MR. RUNNING: I don't think the witness ever had any problem with anything other than the date, which he said he didn't remember.

MR. CARUSO: Well, what I guess I'm asking is whether it refreshes his recollection that it occurred in 1974.

A. Well, only to the degree that I can read the date on the letter.

Q. All right.

MR. RUNNING: well, Carmen, maybe to cut some of this

port, I mean, we'll stipulate to the authenticity of the Milwaukee Die Casting board minutes and incorporation statements for the Delaware corporation, assuming you don't have an objection.

MR. CARUSO: No, I don't. So you'd be willing to stipulate, then, to the incorporation of the new Milwaukee Die Casting?

MR. RUNNING: And that it occurred in December of 1974 and the statements in Exhibit 227 are accurate.

MR. CARUSO: Okay.

Q. Did there come a time after the transaction between Fisher and the old Milwaukee Die, that is the Schrader family in Milwaukee, Wisconsin, that Fisher transferred all of the business and assets of Milwaukee Die Casting Company to the new company, the new Milwaukee Die Casting Company which Fisher had incorporated in Delaware?

A. You're asking me if that was done?

Q. Yes.

A. Again, I cannot recall specifically.

Q. Okay. Let me direct you to Exhibit, what I've marked 229 which is Bates stamped MDC 897.

MR. CARUSO: Perhaps it's another document that counsel could stipulate to the document and the facts presented in the document, the transaction represented?

MR. RUNNING: Yes, we'll do that.

A. Okay.

MR. CARUSO: Counsel, what I'm driving at, and perhaps we could just enter this stipulation, is that Fisher acquired the assets and certain obligations of the old Milwaukee Die Casting Company in exchange for Monsanto stock, and, then in a second transaction or a second step of the same transaction, however you want to describe it, Fisher then transferred all of the assets of the business to the new Milwaukee Die Casting Company which Fisher had incorporated in Delaware.

MR. RUNNING: Those were parts of the same transaction, but, yes, there's no dispute about that. And the transfer took place on the same day.

MR. CARUSO: But just so we're clear, Fisher did not simply acquire the stock of the old Milwaukee Die; it acquired the assets and the obligations and transferred them to the new company which it created.

MR. RUNNING: As is contained in the acquisition agreement, it acquired certain assets and certain obligations.

Q. In connection with the Fisher acquisition of Milwaukee Die Casting as we've stated it on the record, did you participate in any discussions, whether internally at Fisher or Monsanto or with the Schraders or their representatives, concerning environmental matters?

A. None that I recall.

Q. As the designated president of the new Milwaukee Die

le to show better operating performance?

A. No.

Q. Do you know if Mr. Leban is still around here in arshalltown?

A. He is not. He left Fisher a number of years ago; I believe worked somewhere in the Minneapolis area after that, and believe he is now deceased, although I'm not sure of that.

Q. In connection with the acquisition of Milwaukee Die, going back to the initial acquisition, did the Schraders provide you with estimates of capital expenditures that they anticipated at the company would need over the next several years?

A. At this point in time, I do not specifically recall those, but I am certain that it would have been a part of those discussions and negotiations at that time.

Q. Let me show you what I've marked as Exhibit 239, which is Bates stamped MDC 4918, and Exhibit 238, which is Bates stamped MDC 4919 and 4920, and see if that refreshes your recollection on capital expenditure estimates. Do you recognize either or both of those exhibits?

A. Well, again, given the lapse of years since these exhibits were originally written, I can't say that I recall them and remember them.

Q. By looking at them now, could you determine whether those were estimates prepared by the Schraders as opposed to the company after the acquisition?

1 A. I can only speculate that that would have been true.

2 Q. That they came from the Schraders?

3 A. Yes.

4 Q. Do you know whether Milwaukee Die acquired all of the
5 equipment that the Schraders were estimating would be needed?

6 A. I do not recall that, either.

7 Q. But you have testified that you can't recall a single
8 instance where a recommendation from Milwaukee to acquire some
9 equipment was turned down. Right?

10 A. That is also true. Let me-- Let me add just a little
11 bit to two things. First of all, the Schraders were
12 specifically Fred Schrader because it was from him whom the
13 recommendations came and that which we considered.

14 Q. Okay.

15 A. Also, as would be generally customary, I think
16 industrially, and certainly within Fisher, there is a broad
17 outline of equipment that would be required such as this, and
18 that eventually is probably refined to specific recommendations
19 on a piece of equipment one by one by one by one.

20 So, in saying that all of Milwaukee's requests were
21 approved, it does not necessarily mean that every piece of
22 equipment as set forth here would broadly have been approved.
23 But, again, as the specific request came in for this machine and
24 this machine and this addition or whatever, I do not recall an
25 instance where those specific requests were refused.

1 A. Yes.

2 Q. They would also see the Milwaukee Die financial
3 statements?

4 A. Yes.

5 Q. Would anyone else inside Fisher review the Milwaukee
6 Die financial statements?

7 A. Some of the people in the financial-- Let me say
8 first of all that I do not know, but I presume that other people
9 in the financial department would have perused in greater detail
10 those statements as they were presented.

11 Q. Were the-- Excuse me. Were the Milwaukee Die Company
12 financial statements passed on to Monsanto?

13 A. I don't know that.

14 Q. Well, earlier in the deposition you mentioned Ed Bauer
15 as the Monsanto person who, for lack of a better word, was in
16 charge of the Milwaukee Die Casting investment.

17 MR. RUNNING: Objection, mischaracterizes his
18 testimony in at least two respects. He didn't identify
19 Mr. Bauer as a Monsanto employee; he identified him as a Fisher
20 employee. And he did not say that Mr. Bauer had been involved
21 in any Milwaukee Die Casting discussions. To the contrary, he
22 specifically said he didn't remember any such discussions.

23 Q. Who employed Mr. Bauer, do you know?

24 A. Mr. Bauer had a long history of management capacities
25 within the Monsanto company. He headed--

MR. RUNNING: Sorry.

A. He headed the ag division and then had other-- I think at the time that he headed Fisher, he carried a title as vice-president, Monsanto as well.

Q. Okay.

A. And he, in essence, moved from the ag responsibility to the responsibility for Fisher. He may have had other responsibilities at the same time. I don't know.

Q. When you say ag, you mean agriculture?

A. Yeah.

Q. Okay. Was he based in St. Louis at the Monsanto headquarters?

A. Yes.

Q. And I want to just make sure I've got this down. To our knowledge, he had positions in both Monsanto and in Fisher simultaneously?

A. He would have-- He would have had the Fisher spons-- I don't know what kind of a title he carried so far : Fisher was concerned. He had the responsibility for Fisher presentation within the Monsanto organization, and I'm sure that at that time he carried a title as vice-president, Monsanto.

Q. Okay. And, to your knowledge, was he, in fact, an employee of Monsanto?

A. Yes.

1 Q. Did Mr. Bauer--

2 A. Let me say you said to the best of my knowledge, and
3 it's on that basis that I said yes.

4 Q. Fair enough.

5 MR. RUNNING: Well, you either -- if you know, you
6 should say so. If you're not sure, you should say that as
7 well. We just need to be clear if you have a distinct
8 recollection of something or if you're just surmising that he
9 probably did.

10 A. I surmised that he was a Monsanto employee. I don't
11 recall his name ever appearing for-- I just don't know any more
12 than that. As the old saying goes, I've probably already told
13 you more than I know.

14 Q. In the years after 1975 while you were the president
15 of Milwaukee Die Casting Company and remained a vice-president
16 or senior vice-president within Fisher, were you in contact with
17 Mr. Bauer from time to time?

18 A. Yes.

19 Q. And did your communication with Mr. Bauer during that
20 time period include any discussion concerning Milwaukee Die
21 Casting Company?

22 A. I do not recall any specific conversations with
23 Mr. Bauer relating to Milwaukee Die. I would judge that, in all
24 probability, such conversations did occur.

25 Q. You just can't be specific?

MR. RUNNING: Objection to the form of the question. You're not distinguishing between preacquisition and postacquisition.

MR. CARUSO: I believe I did, counsel. I believe the record is very clear that I was focusing on that period.

MR. RUNNING: Do you have that in mind?

A. I think he characterized this as the period in which I was designated as president of Milwaukee Die Casting Company.

Q. And you answered with that frame of reference in your mind?

A. Yes.

MR. RUNNING: Of course, there would be a one-month period before the acquisition, but that's fine.

Q. After the acquisition you continued to speak to Mr. Bauer; correct?

A. Well, again, I said that I do not recall any specific discussions with Mr. Bauer. In our meetings and relationship, would be presumed, I would presume that Milwaukee Die Casting had been one of the things we talked about.

Q. Do you recall any specific discussions with Mr. Bauer about any topics during the same time period?

A. No, no specific discussion.

Q. Is Mr. Bauer someone whose approval had been necessary or Fisher to acquire Milwaukee Die?

A. The acquisition of Milwaukee Die was approved by the

into board after a presentation to them. And I presume that Bauer's acquiescence was necessary before that presentation made to the board of directors.

Q. And what was Mr. Bauer's area of responsibility? For example, was he a manufacturing person, a financial person, a marketing person? Do you know?

A. Oh, probably a little bit of all of those. In his responsibilities of heading the ag department in Monsanto, his name to fame, I suppose you could say, was Roundup because he brought Monsanto into prominence in the sale of that product, obviously, the manufacture of that product to support those sales.

Q. So he would have had manufacturing awareness and responsibility in that area and certainly the marketing or responsibility for the marketing direction of that effort.

Q. Did you and Mr. Bauer exchange written communications?

A. Again, I don't specifically recall any such communication. It is not unlikely that it existed in the course of our long relationship.

Q. Sure. Do you know whether Mr. Bauer ever communicated directly to the management at Milwaukee Die Casting?

A. Not to my awareness. He knew and had met and had discussions in general meetings with John Wheeler. That would be the only person at Milwaukee Die that I think he would have been aware of.

Q. From time to time would there be a meeting or a

1 telephone conference call involving the three of you; Mr. Bauer,
2 Mr. Wheeler and yourself?

3 A. There was never such conversation to the best of my
4 memory.

5 Q. I want to focus on your communications with Milwaukee
6 Die Casting during the period of time that you were the
7 president of the company stationed here in Marshalltown and your
8 communications with the company back in Milwaukee. In fact,
9 that's -- and I don't want to get into a problem about the
10 notice, but that is part of the deposition notice which I showed
11 you as the first exhibit to your deposition today. It was
12 paragraph H of that deposition, paragraph 1-H of that deposition
13 notice.

14 And have you agreed on behalf of Fisher to testify as
15 to communications, coordination and interaction between Fisher
16 and Milwaukee Die Casting Company on a day-to-day, quarterly and
17 annual basis?

18 MR. RUNNING: Well, again, I object to the phraseology
19 used in subsection 1-H in that it could be construed to assume
20 that there was, in fact, day-to-day or quarterly communication
21 between Fisher Controls and Milwaukee Die Casting Company. But
22 as we indicated in our response, Mr. Boyd has knowledge as to
23 the extent to which there was communication between Fisher
24 Controls and Milwaukee Die and is here to testify as to what he
25 knows.

Q. --I know I asked you if you knew where it came from, and I don't think you know what file it came from or anything like that. Do you recognize this--

A. Yes.

Q. --letter? Do you remember writing it?

A. No.

Q. Do you have a recollection of the circumstances which led you to write the letter?

A. In a general sense, yes.

Q. Could you give me your general recollection before we go through the letter itself?

A. Well, having seen this letter and having my memory refreshed thereby, I don't know that I can say any more than is involved in the content of the letter. In my responsibilities, both within Fisher as senior vice-president and signed here as my responsibilities existing then as president of Milwaukee Die Casting Company, and further having been, to a degree, a participant in the decision to acquire Milwaukee Die Casting in the beginning, there is inferred a concern that we had not built upon that acquisition to the maximum degree that we could the necessary moves both for the good of the Fisher organization in its acquisition of die castings and the benefits of, that might accrue to Milwaukee Die Casting Company in a better representation in their relationship with Fisher.

Some of this at that time, as I recall, related to the

1 McKinney division, and the fact that they were running a little
2 rampant in their efforts to minimize their die casting costs and
3 were pressing very hard in their search for other vendors
4 instead of trying to resolve their differences with Milwaukee,
5 perhaps, to the maximum degree that they could.

6 Q. At the time you wrote this memo, did you believe that
7 Fisher should increase its volume of business with Milwaukee Die
8 Casting?

9 A. Again, as best I can recall, yes, to a degree. There
10 was no thought ever of Milwaukee Die as a captive vendor
11 supplying only or even principally Fisher, but, again, to a
12 degree to see Milwaukee Die get the portion of Fisher's business
13 that it could do efficiently and profitably.

14 Q. It states on page two in the first full paragraph that
15 you wanted to place at Milwaukee Die all new die and die casting
16 business in the absence of compelling reasons to do otherwise.
17 Right?

18 A. Uh-huh. Yes.

19 Q. And in that sentence you were expressing your belief
20 that Fisher should try to give more of its die casting business
21 to Milwaukee as opposed to the other competitors of Milwaukee
22 which existed at the time. Right?

23 A. Again, I'd emphasize that final phrase that says, "in
24 the absence of compelling reasons to do otherwise."

25 Q. Well, what would--

A. And those compelling reasons could either be price, efficiency or delivery.

Q. Earlier in the memo in the paragraph that begins at the bottom of page one and goes to the top of page two, you describe Milwaukee as having been a premium supplier in terms of quality. Now, at the time you wrote the memo, were any of Milwaukee's competitors superior to Milwaukee in terms of quality?

A. Not to the best of my knowledge or awareness.

Q. Were any of Milwaukee's competitors undercutting Milwaukee in price as of the time of this memo for a comparable product?

A. Again, I do not recall any such specifics.

Q. Is it fair to say that, at the time you wrote the memo, that while you qualified your belief that Milwaukee -- that Fisher should increase its business with Milwaukee, only in the absence of compelling reasons to do otherwise, that you were not aware of any compelling reasons at that time? Right?

MR. RUNNING: Objection to the form of the question. Misstates the documents. It's also ambiguous.

A. In all honesty, I'm not sure I understand your question or what you are seeking.

Q. Well, with specific reference to your phrase on page 10, "in the absence of compelling reasons to do otherwise," is it fair to say that, when you wrote those words, you were not

aware of any compelling reasons which existed at that time?

A. That's true.

MR. RUNNING: For any particular order or generally? Objection to the question.

MR. CARUSO: Generally. The letter itself is generally. The letter itself doesn't refer to any particular orders.

Q. In the following paragraph you have the word preferential in quotation marks in the phrase, "preferential financially extended to Fisher." Could you tell me what that meant when you wrote the memo?

A. Going back to 1977, it would appear to me that there's a, either an error in my dictation or in the typing of that because it just doesn't read well to say--

MR. RUNNING: Read the whole sentence.

A. "We do not have an obligation to MDCC to allow them to avoid any penalty to the financial success of their business from any preferential financially extended to Fisher." And there needs to be another word in there or a rephrase. I presume that we're talking about preferential pricing, and I think that would be the intent there, and it simply says that we did not intend any such penalty on MDCC.

Q. Sir, if I could interject, I don't want to make this any more confusing, but when your counsel asked you to read the sentence, I believe you said we do not have, and that's what the

court reporter would have recorded.

A. I beg your pardon.

Q. The sentence says, "We do have an obligation"?

A. "We do have an obligation to MDCC to allow them to avoid any penalty to the financial success of their business from any preferential financially extended to Fisher."

Q. Right. That's what the sentence says. And then you went on to clarify that the reference to "preferential financially" could have been a typographical error, but the meaning was preferential pricing. Is that correct?

A. It could be more broad than pricing, I think. In other words, it would look to any kind of preferential treatment by MDCC to Fisher, and we were not inferring that there be such a service by MDCC in any element of their service to any of their customers.

Q. In that same sentence when you refer to their business, you're referring to the business of Milwaukee Die Casting; is that correct?

A. Let me look here just a minute to make sure I know what you mean. Oh, yes, I see what you mean. Yes, that's right.

Q. At the conclusion of the paragraph you state that, "We will be entering into a review of how specifically this factor should be considered in our analysis of financial comparisons of MDCC pricing versus competitive pricing." What type of review

1 did you have in mind?

2 A. Going back to 1977, I can't specifically answer your
3 question. I knew that there were considerations of some
4 awareness of movement of material, for example, between Monsanto
5 divisions, and some things that they looked to in their analysis
6 of profitability relating to that. And I don't recall any such
7 considerations within movement between Fisher divisions, but
8 it's possible that some relationship to the advantage of placing
9 an order at Milwaukee Die versus placing it elsewhere could
10 relate to Fisher Monsanto eventually benefiting from the profit
11 that would be generated at MDCC.

Q. For the obvious reason that Fisher owned the stock of
MDCC and Monsanto owned the stock of Fisher?

A. Yes.

Q. Was the financial analysis that you contemplate in
this memo actually performed?

A. I haven't any idea at this point in time.

Q. The following paragraph refers to, "the equal
importance that we begin to -- begin at once to develop an
intimate family relationship between MDCC and Fisher purchasing
and engineering departments." What did you mean by the words
intimate, quote, family, unquote, relationship?

A. Well, asking me what I meant in a letter in 1977 is
stretching my imagination a little bit, but--

Q. Could you add anything?

1 MR. RUNNING: why don't you read the whole paragraph
2 and you'll be in a better position to answer his question.

3 A. In addition--

4 MR. RUNNING: Just read it to yourself.

5 THE WITNESS: Okay. Well, it would have been on that
6 basis that I would have intended to answer.

7 MR. RUNNING: All right, go ahead. I'm sorry. I
8 didn't know if you'd had a chance to read it.

9 (The question on page 63, line 18 through 22 was
10 read.)

11 A. I believe it would be fair to say that I was concerned
12 that there simply be a demand for a predetermined casting thrown
13 at Milwaukee Die Casting Company by the Fisher purchasing
14 department without any prior involvement or concern, and that
15 would not mean that Fisher was using to the maximum advantage
16 the capabilities within Milwaukee Die Casting Company.

17 And that, as that paragraph goes on to say, if Fisher,
18 as a new design or a new part and a new die were considered,
19 would look to Milwaukee as to the best way that it could be
20 produced, any changes that would enhance its efficiency and
21 lower its cost be recognized and carried forth into the product,
22 that that be done.

23 It's the same sort of thing that you read about every
24 day being now done, for example, by the automotive companies and
25 their suppliers where they are seeking help from those companies

1 as to how parts should be made and how they should be produced
2 as a part of the original design development, thereby improving
3 their overall efficiency and lowering their overall costs.

4 Q. Well, you aren't proposing that Fisher undertake this
5 process with respect to all of the die casting companies that
6 sold product to Fisher; were you? In fact, you say that it's --
7 that you believed it was important that engineering look to
8 Milwaukee for technical assistance in the early stages of new
9 die casting considerations and draw on Milwaukee's input on such
10 matters rather than looking to Milwaukee's competitors for this
11 type of assistance. Is that correct?

12 A. To a degree, certainly that is true.

13 Q. Well, it's what you said; right?

14 A. It would not be logical to own Milwaukee Die Casting
15 Company and not use their capabilities to the maximum possible
16 degree.

17 Q. So, to follow your analogy of auto companies and auto
18 suppliers, it's not really comparable to an auto company going
19 to all of its suppliers; right? It's going to the one supplier
20 that it owns; is that correct?

21 MR. RUNNING: Objection. It assumes that auto
22 companies go to all potential suppliers as opposed to targeting
23 a limited number of suppliers.

24 A. And if you carry that one step further, the things
25 that you read these days indicates that the auto companies are

working with a single supplier in developing those kind of relationships.

Q. Do you have any knowledge of a specific example of an auto company and a supplier that you're referring to?

A. I can't give it to you now, but I could go through about three months' worth of Wall Street Journals and dig out two or three for you if you care to pay for the time involved.

Q. Do you know whether Fisher's engineering department-- excuse me. In this paragraph when you refer to purchasing and engineering, are you referring to Fisher purchasing or Fisher engineering, or both?

A. Let me look to find the specific phrase.

Q. The third line of the paragraph.

A. I'm referring to Fisher purchasing and engineering departments both.

Q. Okay. Did the Fisher purchasing and engineering departments carry out or implement the recommendations which you make in this paragraph of your letter?

A. I have no way to answer that question with any validity.

Q. Is that because you no longer recall?

A. I no longer recall, that's right.

Q. Now, you signed this letter in your capacity as a senior vice-president of Fisher; right?

A. Right.

Q. Was there some reason you didn't sign it as president of Milwaukee Die Casting?

A. It was addressed to people responsible to me in Fisher.

Q. Who was the Les Schroepfel, S-C-H-R-O-E-P-P-E-L, who is listed as a carbon copy?

A. He was one of our manufacturing managers, and I believe at that point in time was manager of materials. Ralph Franklin was the Fisher purchasing representative, purchasing agent at that time.

Q. Going back to the first page, who was Dennis Blanchard?

A. He was a Fisher vice-president accountable to me in the area of manufacturing.

Q. Did he ever hold any positions at Milwaukee Die Casting?

A. I can't answer that question. I think that after my removal from that position and my move to St. Louis that the line of accountability for Milwaukee Die Casting Company may have led to him.

Q. Okay. You just don't know? Okay. What was the specific incident that led you to write this letter which, again, was marked as Exhibit 249?

MR. RUNNING: I think he's already answered that question. Objection; asked and answered.

Q. Well, did it-- Was the incident that led you to write this the decision by some people in Fisher to buy die casting from competitors of Milwaukee and your concern that that would harm the Milwaukee relationship?

MR. RUNNING: Objection; it assumes there's an incident. I don't think the memo says that. Secondly, he's already explained what prompted the writing of the memo.

Q. Well, the first sentence of the letter refers to a recently demonstrated weakness, and then it refers to an example of the consideration of placement of the dies referring to the on/off rotary actuator. And what I'm asking, was there some specific incident that you had in mind, as you've given us, certainly you've given us some of the general considerations or circumstances?

A. My memory does not permit a specific answer to you. I think it would be fair to judge that we had a new product coming along that had die castings or perhaps several die castings involved with it and that there had been activity relating to the placement of those new dies.

Q. Did you have any contact with J.N. Ehlers, E-H-L-E-R-S, whom I believe was a lawyer at Monsanto?

A. I commented earlier that I didn't recognize that name.

Q. Okay.

A: It is vaguely familiar, but I don't recall who he was or what his responsibility was.

of the old Milwaukee Die Casting Company as of 1975?

A. I do not know now. I presume I would have known what the purchase agreement would have been at that time.

Q. In Exhibit 249 there's a reference to Mr. Hanley, H-A-N-L-E-Y. He's named on page two in the first full paragraph, second line. Do you know who he was?

A. President and chief executive officer of Monsanto is all.

MR. RUNNING: That's enough for me.

A. I would have traded positions and income with him at the drop of a hat.

MR. CARUSO: I have no further questions.

MR. RUNNING: I want to take about a two-minute break. I'll have a very brief cross.

(There was a break taken.)

MR. CARUSO: For the record, I would like the record to reflect that during the break between the conclusion of my examination and the beginning of Mr. Running's examination, Mr. Running and the witness conferred, and while we don't know what they discussed, I think the conference was improper. You may continue.

CROSS-EXAMINATION

BY MR. RUNNING:

Q. Mr. Boyd, could you describe how it was that

r. Wheeler was selected as executive vice-president and general manager of Milwaukee Die Casting in 1975?

A. Yes, I think I can. Other than a user of die castings, we had no expertise within the Fisher organization relating to the manufacture of die castings and we were looking, looking in the acquisition of Milwaukee Die, as to how that expertise would be provided, not only in the manufacturing, but the related marketing and the whole structure of the operation of a die casting business.

So, we looked to Milwaukee Die with the help of Mr. Schrader to see what internal capabilities they would bring us. We looked with some concern because our principal contact through the years had been with Mr. Schrader who we regarded as a very competent individual in every phase of the die casting business, and he really had only two people up there to talk to us about.

One was Mr. Suess, who was in the manufacturing operations, and the other, Mr. Wheeler, who had joined them fairly recently, but was well aware of the die casting process and the marketing of die castings and the aspects of the profitable operation of the business in that regard. Mr. Wheeler had become Mr. Schrader's understudy in a broad sense in the management of the business, and it was Mr. Schrader's recommendation that we name Mr. Wheeler to the responsibility of the operation of the company. And as the records indicate,

we subsequently did that.

And, again, I would emphasize that we looked to him of necessity because we didn't have those kind of capabilities and that because we didn't have those capabilities, the operation of the company remained strongly in the hands of the people who had actually been responsible for it before because Mr. Schrader had, to some degree, backed away from the full depth of broad management responsibilities.

Q. Okay. Mr. Boyd, as the vice-president for manufacturing of Fisher Controls and then later the senior vice-president for manufacturing of Fisher Controls, how would you characterize your objectives in overseeing the business of the Milwaukee Die Casting Company subsidiary of Fisher?

A. Well, I think I alluded to this in a comment earlier, but basically in our acquisition of the company and in our presentation of everything relating to it, we were looking to do two things. One was maintaining a very important supplier to Fisher who, through the years, had provided quality castings at competitive prices, and we didn't want to lose that capability in procurement and face the difficulty of placement of those castings with new vendors and the technical problems that were bound to relate to that.

The other thing, of course, was that we didn't want to have to continue to pay for that capability beyond the purchase of the company originally, and that we were looking to an

KROSE DEP.

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WISCONSIN

3
4 MILWAUKEE DIE
5 CASTING CO., et al.,

6 Plaintiffs,

7 vs.

No. 93-C-0325

8 FISHER CONTROLS
9 INTERNATIONAL, INC.,

10 Defendant.

11 DEPOSITION OF LARRY KRUSE
12 January 19, 1995
13 10:00 a.m.
14 500 Fourth Street, Northwest
15 Albuquerque, New Mexico

16 PURSUANT TO THE NEW MEXICO RULES OF CIVIL PROCEDURE this
17 deposition was:

18 TAKEN BY: CARMEN D. CARUSO, ESQ.
19 Attorney for Plaintiffs

20
21
22 REPORTED BY: Anne E. Dehon, NM CCR #263
23 Hughes Southwest Court Reporters
24 121 Tijeras, Northeast
25 Albuquerque, New Mexico

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Anne E. Dehon, CCR
(505) 843-8211

1 Q. Are you aware that Fisher purchased Milwaukee Die
2 Casting in 1975?

3 A. Yes.

4 Q. Did you play any role whatsoever in that acquisition?

5 A. No.

6 Q. Did there come a time, while an employee of Fisher, that
7 you assumed certain responsibility with respect to Milwaukee Die
8 Casting?

9 A. Yes.

10 Q. Could you tell us the -- first tell us when that
11 occurred and then tell us the circumstances.

12 MR. ELLIS: Object; compound. One question at a time,
13 please.

14 Q. Could you tell us when you began to play a role with
15 respect to Fisher (sic.)?

16 A. I don't know specifically what year, but it happened or
17 it occurred during the job assignment when I was director of
18 service operations.

19 Q. Would it have been approximately 1979 that you became
20 involved with Fisher -- excuse me, involved with Milwaukee Die
21 Casting?

22 A. I don't recall.

23 Q. Could you tell us the circumstances of your becoming
24 involved with Milwaukee Die Casting?

25 A. I don't recall the specific circumstances why I got the

1 management responsibility for it.

2 Q. Did there come a time when you became the president of
3 Milwaukee Die Casting?

4 A. No. I was never the president of Milwaukee Die
5 Company.

6 Q. Did you receive any title with respect to Milwaukee Die
7 Casting Company?

8 A. I don't recall.

9 Q. Were you an officer of Milwaukee Die Casting Company?

10 A. I don't remember that.

11 Q. What is your recollection of the responsibility which
12 you had with respect to Milwaukee Die Casting Company?

13 A. I guess I would best describe it as kind of an
14 arm's-length responsibility.

15 Q. As the director of service operations for Fisher, you
16 were based in Marshalltown?

17 A. That's right.

18 Q. And as the director of service operations for Fisher,
19 did you receive any specific assignment whatsoever in terms of
20 Milwaukee Die Casting?

21 A. I guess I don't understand the question.

22 Q. Did somebody in Fisher ask or direct you to do something
23 or to take on certain responsibilities with respect to Milwaukee
24 Die?

25 A. Yes, I took on responsibility for Milwaukee Die.

1 A. I don't recall.

2 Q. Do you know if Mr. Boyd ever had any responsibility or
3 role on behalf of Fisher with respect to Milwaukee Die?

4 A. I don't recall.

5 Q. Do you remember a man named Fred Schrader?

6 A. No.

7 Q. If I told you he was the person who either directly or
8 on behalf of other members of the Schrader family was the owner of
9 Milwaukee Die before Fisher, would that refresh your recollection?

10 A. No.

11 Q. So you didn't know any of the owners before Fisher
12 bought the company?

13 A. No. I didn't know anything about Milwaukee Die until I
14 got the responsibility for it.

15 Q. What responsibilities did you have for Milwaukee Die
16 Casting?

17 A. How would I describe that? Milwaukee Die, on a
18 day-by-day situation, pretty much operated autonomously of Fisher,
19 but as all corporations require, it had to have someplace to
20 report into, so I was assigned the responsibility to report into
21 me.

22 Q. And then, I take it, you received reports from time to
23 time?

24 A. Yes.

25 Q. Did you receive written reports?

1 A. Occasionally.

2 Q. Who submitted those written reports to you?

3 A. Most of it was financial in nature, and probably it
4 would have come out of their accounting departments.

5 Q. What did you do with the financial reports when you
6 received them?

7 A. Reviewed to see that the numbers were acceptable.

8 Q. That the company was operating at a sufficient level of
9 profitability?

10 A. Yes.

11 Q. Was it profitable during the time you were receiving
12 reports?

13 A. As I recall, it was, yes.

14 Q. Were the numbers acceptable to you?

15 A. I don't remember if they were or not.

16 Q. What else, if anything, did you do with the financial
17 reports or the information contained in the financial reports from
18 Milwaukee Die when you received them?

19 A. I don't recall.

20 Q. Did you pass that information or the reports themselves
21 along to anybody in Fisher?

22 A. Well, they would go directly into the financial
23 department from their financial department, so there was no need
24 for me to pass it along.

25 Q. Was there a time that you became a director of Milwaukee

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1 here today -- is it your understanding that you are here today to
2 represent Fisher in giving testimony on a certain subject, and
3 that subject is capital investments on behalf of Milwaukee Die
4 Casting and the authority to make decisions with respect to
5 capital investments?

6 MR. ELLIS: Objection to the form of that and to the
7 sentence -- you know, we've had this ongoing problem with the way
8 that's been worded, and that suggests facts not in evidence. In
9 fact, it's facts just contrary to the evidence. But subject to
10 that objection, you can answer the question.

11 A. State the question again for me, will you, so I know
12 what I'm talking about here?

13 MR. CARUSO: Can I ask the court reporter to read it
14 back, so we can all hear.

15 (Question read upon request.)

16 A. Well, I certainly can comment on it.

17 Q. What is your knowledge of that subject?

18 A. Not real specific at this time. Why don't you ask him.
19 It depends on what the question is on the subject, but --

20 Q. At any time while you were employed by Fisher, and
21 specifically while you were the director of service operations and
22 while you were a director of Milwaukee Die Casting Company, did
23 you have any knowledge of the process by which Milwaukee Die
24 Casting Company would make a capital investment or expenditure?

25 A. I would have had some knowledge at that time, yes, to

1 what the procedures were.

2 Q. Could you tell me today what those procedures were?

3 A. Not specifically, I don't recall, no.

4 Q. Well, you say you don't have a specific recollection.

5 Is there some general recollection that you have?

6 A. I don't know. Do you have a general question that you
7 want to ask me?

8 Q. Well, the same one I've been asking you. Do you have a
9 general understanding of the procedures for capital investments
10 made by Milwaukee Die Casting?

11 A. Well, the general understanding that I would have --
12 remember, this goes back a long ways. I didn't make a point to
13 remember a whole lot about Milwaukee Die after I left Fisher. But
14 there were some procedures whereby there were -- procedures in
15 regard to capital expenditures. Milwaukee Die would have had the
16 authority or authorization to make certain capital expenditures at
17 their plant level without having to receive approval from Fisher
18 or the Fisher board or Fisher corporate headquarters, and there
19 was some level where they would have had to receive, you know,
20 authorization to go ahead with expenditures, but I do not recall
21 what those levels were.

22 Q. And by level, you're referring to a dollar amount that
23 was the cutoff?

24 A. Yes, capital investment level.

25 Q. You don't remember what the cutoff was?

1 A. No.

2 Q. Did you ever see a document that set forth what the
3 level was? In other words, was the policy written down somewhere?

4 A. I'm sure there would have been, but I don't recall what
5 they were.

6 Q. Did you play any role in establishing that policy or
7 setting that level?

8 A. No.

9 Q. Do you know who did?

10 A. That would have come out of the Fisher corporate
11 headquarters.

12 Q. And do you know the names of the individuals at Fisher
13 who would have set that policy?

14 A. No, I would not know who would have been involved in
15 establishing that policy. They -- well --

16 Q. As a director of Milwaukee Die Casting Company -- I'm
17 focusing on that position which you occupied for a period of
18 time --

19 A. Uh-huh.

20 Q. -- as opposed to your situation at Fisher itself. But
21 as a director of Milwaukee Die Casting, did you have any input
22 into capital investment decisions?

23 A. I don't recall. I don't even recall what role I played
24 as director of Milwaukee Die.

25 Q. Did you ever attend a directors' meeting?

1 A. No. I don't know if I did or not.

2 Q. Did you ever go to Milwaukee to see the plant?

3 A. Yes.

4 Q. How many times, would you say?

5 A. Not very frequently, but I -- a couple of times,
6 probably.

7 Q. Do you recall the purpose of those visits?

8 A. Well, one of them would have been when I assumed the
9 responsibility, to make a visit there to see what we had. Second
10 visit would have been when John Wheeler passed away.

11 Q. Do you remember any other visits besides those two?

12 A. No. But there were not very many visits. I recall
13 that. But there might have been another one or so.

14 Q. Let's focus on the first visit to the extent we can.

15 A. Uh-huh.

16 Q. Did you make that first visit at or about the same time
17 you became a director of Milwaukee Die Casting Company?

18 A. I don't know what the time frames were there anymore.

19 Q. Did you visit the plant? And it's on North Holton
20 Street in Milwaukee.

21 A. Was that the location of the property?

22 Q. Yes.

23 A. That's where I would have visited, yes.

24 Q. You went right to the plant?

25 A. Yes.

1 of things that were more service-related, I guess somebody decided
2 that it made sense to slot that into my organization.

3 Q. When you referred to Fisher service companies, what did
4 you mean by that term?

5 A. Fisher service companies are -- I don't know how many
6 are located now, but at the time I had the responsibility, there
7 were three or four little valve repair operations strategically
8 located in the United States where customers could bring the
9 Fisher product, the control valve product specifically, and have
10 it repaired. It was more economical to do that in some cases than
11 buy new equipment, and Fisher marketing recognized that as an
12 opportunity.

13 Q. So these were companies that Fisher acquired?

14 A. Companies that Fisher started.

15 Q. Started?

16 A. Yes.

17 Q. And they were corporations separate than Fisher itself?

18 A. No.

19 Q. They were divisions of Fisher?

20 A. They were divisions of Fisher, yes.

21 Q. Do you know what the corporate relationship was between
22 Milwaukee Die and Fisher?

23 A. Not specifically, no.

24 Q. Do you have a general idea?

25 A. Well, it was -- generally, I would say it was more of an

1 arm's length type of relationship. They kind of ran their own
2 business. They knew that business. Like I said, you know,
3 generally Fisher was not involved in that business, and that's
4 probably was one of the reasons Fisher elected to sell that
5 business, because it wasn't a good fit.

6 Q. Do you know or are you speculating as to the reason
7 Fisher elected to sell?

8 A. No.

9 Q. You don't know?

10 A. Do I know what?

11 Q. You testified a second ago as to a possible reason why
12 Fisher may have wanted to sell Milwaukee Die, and my question was
13 whether you're speculating as to that reason or whether you have
14 some knowledge based on conversations or facts you learned at the
15 time.

16 A. No. The reason they sold Milwaukee Die was because it
17 did not have a good fit in the business and the decision was made
18 to sell the business.

19 Q. Did you participate in that decision?

20 A. Yes, I did.

21 Q. Did you make a recommendation to sell the company?

22 A. Yes, I did.

23 Q. And I take it, the basis of your recommendation is you
24 thought it was not a good fit?

25 A. That's right.

1 Q. Did you prepare any memos or letters for Mr. Teagarten
2 which apprised him of the situation in writing?

3 A. I don't recall how I transmitted the information to him.

4 Q. Did you have any regular meetings with Mr. Teagarten to
5 discuss Milwaukee Die?

6 A. No.

7 Q. Was your office in the same building as Mr. Teagarten's?

8 A. Yes.

9 Q. On the same floor?

10 A. I don't recall.

11 Q. Is Mr. Teagarten someone who you saw every day at work
12 or was it more formal, where, if you wanted to see him, you'd have
13 to schedule an appointment?

14 A. Yeah, schedule an appointment.

15 Q. You wouldn't just walk in on a daily basis?

16 A. No. There was no "Hi," chitchat.

17 Q. From time to time, did you schedule appointments to see
18 Mr. Teagarten about Milwaukee Die Casting?

19 A. Specifically, I don't recall how often we did that or
20 whether I ever did it.

21 Q. What did you tell Mr. Teagarten about the PCBs at
22 Milwaukee Die Casting?

23 MR. ELLIS: Asked and answered.

24 THE WITNESS: Pardon?

25 MR. ELLIS: I just made an objection that it was asked

1 point in time did not have a lot of toxic -- the other plants did
2 not have the potential for that kind of toxic substance.

3 Q. Did anybody report to you as to the status of this
4 disposal process? Did you receive regular reports as to how it
5 was going?

6 A. I'm sure I would have.

7 Q. Let me show you what's previously been marked as Exhibit
8 Number 307 to the Rodgers deposition. Take a look at it, if you
9 please, and once you've had an opportunity to review it, my
10 question will be whether you've ever seen it before me showing it
11 to you right now.

12 A. I don't recall the content of the memo, but like I say,
13 again, my name is on it. But it appears to be some sort of a
14 status report.

15 Q. So you don't remember receiving it?

16 A. Not anymore, no.

17 Q. Do you know whether you received more than one report
18 from Mr. Rodgers on the status of the project?

19 A. I don't know how many reports I received from Mr.
20 Rodgers on the status.

21 Q. But the subject of the PCB removal, this disposal
22 process referenced in Exhibit 307, that fell within Mr. Rodgers'
23 reporting obligation to you?

24 A. Yeah, that would have been the chain of command.

25 Q. And what did you do with this information after you

1 received it?

2 A. I'm sure I would have summarized it and passed it on to
3 Mr. Teagarten.

4 Q. And what was the purpose of Mr. Teagarten being apprised
5 of the status of the PCB removal process at Milwaukee Die Casting?

6 A. Well, he had the total responsibility.

7 Q. For the -- he had the ultimate responsibility?

8 A. The ultimate responsibility was with him and Fisher, and
9 I guess the ultimate responsibility throughout. How do you want
10 to take it?

11 Q. For the PCB removal process.

12 A. He would have been in that loop, also. I don't know
13 where the ultimate responsibility would have been.

14 Q. It could have gone all the way to Monsanto; is that
15 correct?

16 A. I don't know. I don't know if it would have or not.

17 Q. It could have gone above Mr. Teagarten, right?

18 A. It could have, yeah.

19 Q. Could it have gone to the Fisher board of directors?

20 A. I don't know if this matter would have gone that high or
21 not.

22 Q. It certainly went above you, though, right?

23 A. Yeah.

24 Q. Did there come a time when Mr. Rodgers' concerns as to
25 how this process was going were resolved?

1 go there and actually get involved in a manual labor sense?

2 Q. You can answer the question, Mr. Kruse.

3 A. Was I involved in it? No.

4 Q. Did you have any involvement in addressing the PCB,
5 quote, problem at Milwaukee Die Casting?

6 MR. CARUSO: Objection; ambiguous.

7 Q. You can answer the question.

8 A. I can answer the question. My involvement, again, was
9 kind of an arm's-length involvement. The problem was at Milwaukee
10 Die, and I think there was probably some Monsanto help to help to
11 get it cleaned up, but I don't recall the details of all the
12 specifics in the loop.

13 Q. How did Monsanto get involved in the PCB situation at
14 Milwaukee Die Casting?

15 A. I think they got involved because they were in the
16 chemical business and probably had some expertise in this area.

17 Q. Who asked Monsanto to get involved?

18 MR. CARUSO: Calls for speculation.

19 A. It probably would have come out of Milwaukee Die.

20 Q. Who was responsible for the day-to-day operations at
21 Milwaukee Die Casting during the time that Milwaukee Die Casting
22 fell under your responsibility as director of the Fisher service
23 companies?

24 A. Well, first it was John Wheeler.

25 Q. And subsequently, after Mr. Wheeler died?

1 MR. CARUSO: Objection. It's ambiguous.

2 Q. Do you understand the question?

3 A. Yes.

4 Q. Okay. How would you characterize the business of
5 Milwaukee Die Casting vis-a-vis Fisher's business?

6 MR. CARUSO: Same objection.

7 A. Can I answer the question?

8 Q. Yes.

9 MR. CARUSO: Of course.

10 A. Completely different business. You know, they were a
11 supplier of Fisher, a completely different -- almost a stepchild
12 within the Fisher operation. Well, not almost. It was. Fisher
13 didn't understand the business.

14 Q. Earlier, you talked about there being a level of capital
15 expenditures at which Milwaukee Die Casting had its own autonomy
16 to spend; is that right?

17 A. Correct.

18 Q. Now, if a company like Milwaukee Die Casting wanted to
19 get approval for a capital expenditure, what would that entail?

20 A. Well, there were certain levels at which they could make
21 their own decisions, and then at a larger level -- and I don't
22 know where the numbers break down. But at larger levels, you
23 would generate what we referred to as an appropriation request and
24 get Fisher approval for it, which would have come out of Clayton.

25 Q. And how would you get the approval?

1 A. You put together an appropriation request, and it kind
2 of went up through the same -- you know, the guy that had the
3 plant responsibility used to put the request together because he
4 was intimately familiar with why the capital expenditure was
5 required and what it was going to be used for, and I would have
6 signed off on it. And there was a certain level that I could sign
7 off on, and I don't recall what that was. But then -- you know,
8 it kind of went up by levels. Mr. Teagarten also had that, and if
9 it got to another certain point, if it was a large request, it
10 would have to be approved in corporate.

11 Q. And for the level that Milwaukee Die Casting didn't have
12 authority on its own to spend, what would that be?

13 A. Dollarwise?

14 Q. Generally, yeah. If you can't remember the dollar
15 amount, would that be a relatively large dollar amount?

16 MR. CARUSO: Objection; ambiguous.

17 A. It would have been probably somewhat significant, yeah.
18 What you didn't want to do is make that amount so small that you
19 stymied the day-to-day operation of that operation.

20 Q. Did you ever have occasion, during the time that you
21 were the director of the Fisher service companies, to review or
22 receive capital expenditure requests from Milwaukee Die Casting?

23 A. To the best of my knowledge, we never had one that
24 large.

25 MR. ELLIS: I don't have any more questions.

EXAMINATION

1
2 BY MR. CARUSO:

3 Q. You mentioned monthly reports from Milwaukee Die. We
4 looked earlier at Exhibit 307 which was Mr. Rodgers' handwritten
5 report to you about the status of PCB disposal.

6 A. Uh-huh.

7 Q. It appears to be as of October 28, 1981.

8 A. Uh-huh.

9 Q. Did you include this within your definition of monthly
10 reports that would come to you?

11 A. This would be probably in addition, but --

12 Q. In addition to the regular report?

13 A. Yeah. Monthly reports were just, you know, the standard
14 financial reporting.

15 Q. And if something out of the ordinary was occurring, like
16 a PCB removal process, that would be included; is that correct?

17 A. Well, obviously, information had to be passed along at
18 some point in time, and, you know, Mr. Rodgers certainly felt that
19 I needed to be aware of it. This report is not part of a standard
20 monthly report, is what I'm saying.

21 Q. This is something in addition to the regular report that
22 you received?

23 A. Yeah. Yes.

24 MR. CARUSO: No further questions.

25 MR. ELLIS: I just have one more question.

MEANS DEP.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MILWAUKEE DIE CASTING COMPANY,
SLYMAN INDUSTRIES, INC., and
THERESA A. SLYMAN,

Plaintiffs,

vs.

Case No. 93-C-0325

FISHER CONTROLS INTERNATIONAL,
INC.,

Defendant.

DEPOSITION OF WILLIE L. MEANS,
was taken at the instance of the Defendant,
under and pursuant to the provisions of
Section 804.05 of the Wisconsin Statutes, and
the acts amendatory thereof and supplementary
thereto, before me KATHY A. HALMA, Registered
Professional Reporter and Notary Public in and
for the State of Wisconsin, at the law offices
of Godfrey & Kahn, 780 North Water Street,
Milwaukee, Wisconsin, on the 9th day of
January, 1995, commencing at 11:15 o'clock in
the forenoon.

TRANSCRIPT OF PROCEEDINGS

WILLIE L. MEANS, called as a witness
herein by the Defendant, after having been
first duly sworn, was examined and testified as
follows:

EXAMINATION

BY MR. ASH:

Q Mr. Means, I wonder for the sake of the record
if you'd mind repeating your full name and
spelling your last name.

A Willy L. Means, M-E-A-N-S.

Q Where do you live, sir?

A Address or just --

Q Address.

A

Q And your date of birth?

A

Q And your Social Security number?

A

Q Where are you presently employed?

A Milwaukee Die Casting Company.

Q And where is that located?

A 4132 North Holton Street, Milwaukee, Wisconsin.

Q Okay. How long have you been employed at the

1 Milwaukee Die Casting plant on North Holton?

2 A 18 years.

3 Q Okay. So the time you started there was when?

4 A November 1976. I don't remember the exact
5 date.

6 Q Okay. Prior to going to work for Milwaukee Die
7 Cast in November '76 -- Let me go back a step.

8 Did you spend all your time at
9 Milwaukee Die Cast at the plant on Holton
10 Avenue -- on Holton Street?

11 A Okay. You said --

12 Q Did you always work at the Holton plant?

13 A No, I worked for other companies, if that's
14 what you're asking.

15 Q I'm going to get to that. In 1976 when you
16 began working for Milwaukee Die Casting
17 Company, did you ever work any place other than
18 that plant out on Holton?

19 A No.

20 Q Okay. Prior to going to work for Milwaukee Die
21 Casting Company, can you tell me a little bit
22 about your employment history? Let me go back
23 a step. Did you go to high school in the area?

24 A No, I went to high school in Illinois.

25 Q Okay. Where did you go to high school and when

- 1 Q Is that correct?
- 2 A Um-hum.
- 3 Q What was your first job at Milwaukee Die
- 4 Casting Company?
- 5 A I worked in the shipping and receiving area and
- 6 drove company truck.
- 7 Q And how long did you work in the shipping and
- 8 receiving area and drive the company truck
- 9 before you moved on to some other kind of
- 10 employment at Milwaukee Die?
- 11 A About four years, I think.
- 12 Q Through approximately the end of 1980?
- 13 A Yes. I would say yes.
- 14 Q Okay. During the period approximately '76
- 15 through 1980 when you worked in the shipping
- 16 and receiving area and drove the truck, who did
- 17 you -- who was your supervisor?
- 18 A Casey Sokanicki (phonetic).
- 19 Q Well, you know we're going to ask you to spell
- 20 that.
- 21 A Oh, boy.
- 22 Q Try to, anyway.
- 23 A Oh, boy. Casey Sokanicki. I'm not sure.
- 24 Q Okay.
- 25 A I'm not sure.

- 1 Q What was Mr. Sukanicki's title?
- 2 A He was the shipping supervisor.
- 3 Q What did you do in the shipping and receiving
- 4 department during this period? I mean, what
- 5 were your actually duties besides driving the
- 6 truck?
- 7 A Oh, I packed castings, drove the forklift,
- 8 loaded trucks, unloaded trucks.
- 9 Q Okay. Kind of a jack-of-all-trades?
- 10 A Somewhat.
- 11 Q Okay. After you stopped working in the
- 12 Shipping and Receiving Department and driving
- 13 the truck in 1980, what was the next job you
- 14 held at Milwaukee Die Casting Company?
- 15 A I was promoted to shipping supervisor.
- 16 Q And how long were you shipping supervisor
- 17 before you took a different job?
- 18 A Until 1989.
- 19 Q Okay. Now when you worked as shipping
- 20 supervisor between approximately 1980 and 1989,
- 21 who was your immediate supervisor?
- 22 A Mike Jascur.
- 23 Q Are you able to spell that?
- 24 A J-A-S-C-U-R.
- 25 Q Okay. And in 1989 did you take another

1 said.

2 Q Okay. Have you ever gotten any directives
3 about your work from the present owners of the
4 stock of Milwaukee Die Casting Company, namely,
5 members of the Slyman family?

6 A Not directly, no.

7 Q Okay. Well, what kind of directives have you
8 got indirectly from members of the Slyman
9 family?

10 A Well, see, I guess I don't quite understand,
11 but let me try to answer it this way.

12 Q Sure.

13 A Indirectly through my supervisor to me, you
14 know, as far as plant clean-up, this type
15 thing, I would say that would be an indirect
16 directive from the Slymans to me.

17 Q Okay. Have you ever heard the term "the back
18 40" as it applies to the Slyman -- excuse me --
19 as it applies to the Milwaukee Die Casting
20 Company plant?

21 A Yes.

22 Q What does it refer to?

23 A The north side of the plant.

24 Q Do you know why it's called the back 40?

25 A No, I don't know why.

1 Q Okay. On the north side of the plant there is
2 a paved parking lot there; is that correct?

3 A Paved and graveled, yes.

4 Q Okay. Is it the paved graveled part that --
5 paved or graveled part that is referred to as
6 the back 40 or is it the area further to the
7 north of that or can't you say?

8 A I'm not sure, but I know it's the north side of
9 the plant.

10 Q Okay. Do you have any -- Let me ask you this.
11 Did you ever -- Well, I'll ask you this
12 question more generally.

13 Do you have any knowledge of yourself
14 or any employees dumping fluids out on the back
15 40 or anywhere around the premises?

16 A Yes.

17 Q Okay. Did you, yourself, ever dump any fluids
18 out on the back 40 or anywhere around the
19 premises?

20 A No.

21 Q Okay. Did you see anyone dump any fluids on
22 the back 40 or anywhere around the premises
23 while you were employed at MDCC?

24 A Yes.

25 Q You did not actually do so yourself, though?

1 A No, I did not.

2 Q Who did you see dumping fluids? Let me ask the
3 question more generally and then we can come
4 back and pick up on the particulars. What did
5 you see in terms of employees dumping fluids
6 anywhere around the premises?

7 A Well, I used to see employees on the forklift
8 with the vacuum cleaner and take it out to the
9 back 40 and dump it.

10 Q Okay. Can you name any of the employees you
11 saw doing that?

12 A I remember Cliff White used to be the sweeper
13 or the material handler. He used to dump out
14 there. I used to see him.

15 Q Okay. He is still with the company?

16 A No.

17 Q Okay. And what exactly did you see happening?
18 I mean, tell me what you actually saw with your
19 own eyes.

20 A I saw Cliff drive the forklift out to the back
21 and, like I said, with the vacuum cleaner and
22 take it out and dump it.

23 Q Okay. Did he dump the vacuum cleaner, are you
24 saying?

25 A Well, no, you know, we have a spigot on the

1 vacuum cleaner and he would open it up and let
2 the oil and whatever come out.

3 Q And how much fluid is in the -- would be in the
4 vacuum cleaner when you would open it up and do
5 that? Can you give me some type of
6 approximation?

7 A It's a 55-gallon drum.

8 Q How many times did you see him do that, would
9 you say?

10 A In all honesty, I would probably say two to
11 three times.

12 Q Okay. Did you see anyone else other than Cliff
13 White do it?

14 A No.

15 Q Okay. Did you see anyone else dump any fluid
16 by any other device? I mean, just dump buckets
17 or anything of that sort or any other -- tell
18 me what you saw of any other dumping out on the
19 back 40 or anywhere around the premises of
20 fluids other than what you already said.

21 A That's the only thing I actually saw myself.

22 Q Okay.

23 A Yes.

24 Q During what period did you see this going on,
25 would you say?

- 1 A It was after 1976. I do know that.
- 2 Q Because you went to work in November of '76?
- 3 A Yes. I can't tell you exactly what date or
- 4 what year it was, put I know it was after I
- 5 started there.
- 6 Q Sure.
- 7 A Yes.
- 8 Q Okay. Was it -- Is it fair to say it was
- 9 fairly soon after you started there or
- 10 otherwise?
- 11 A I would say it was soon after I started there.
- 12 Q Could you tell me what job you had when you
- 13 observed this?
- 14 A I was working in the shipping and receiving
- 15 area.
- 16 Q Okay. So you were in your first job at MDCC
- 17 when you saw this?
- 18 A That's correct.
- 19 Q What, if you know, what fluids did you see
- 20 Cliff White deposit? In other words, what's in
- 21 those 55-gallon tanks, if you can tell us?
- 22 A I know it was oil.
- 23 Q Anything beyond that?
- 24 A What do you mean, "anything beyond that?"
- 25 Q Can you tell me anything more precisely about

1 what was in the tanks?

2 A All I can tell you is oil. I do know that it
3 was oil in the vacuum cleaner going onto the
4 gravel.

5 Q And where did this occur exactly, if you can
6 tell? Where did you see this happening in
7 terms of the premises? Are you able to say?

8 A Yes, straight out the back door in the north
9 parking lot.

10 Q On gravel or on asphalt?

11 A On gravel. May I be allowed to elaborate on
12 anything I say here?

13 Q As far as I am concerned you may elaborate.

14 A The oil going on the gravel I was told was good
15 for the parking lot, you know, to keep the dust
16 down. I remember hearing that.

17 Q Is it fair to say you saw this going -- Now I
18 don't want to put words in your mouth, but is
19 this something that you saw going on in your
20 first couple of years of employment or might it
21 have been later than that?

22 A I know it would be, I would say, in the first
23 couple years I was there I did see it.

24 Q Okay. And not after the first couple of years
25 of employment?

1 A No.

2 Q Okay. You understand what I'm trying to get is
3 I want to know everything that you know about
4 the dumping of fluids. Is there anything in
5 general that you haven't told me about the
6 dumping of fluids around the premises?

7 A Well, the only other thing that I know for sure
8 is that we used to dump oils down the sewer or
9 down the drains, per se, and that was closed
10 off and we was no longer allowed to do that. I
11 think -- in fact, I'm sure that everyone that
12 was involved during that time used to dump in
13 the sewers. I do know that.

14 Q Okay. And there was a time when you could no
15 longer do that; is that correct?

16 A That is correct.

17 Q Do you know when you could no longer do that?

18 A I'm not sure.

19 Q Okay. Can you make an estimate based on how
20 soon it was after you started your employment
21 in November of 1976?

22 A I would probably think it was someplace in the
23 '80's, but I'm not sure.

24 Q Okay. Was there ever an understanding on your
25 part that you or that employees were not

1 A I don't think so, because even the people that
2 worked in the Shipping Department would have
3 gotten the same instructions as far as, you
4 know, dumping or whatever.

5 Q Okay. Do you have any knowledge of what oils
6 or substances were dumped?

7 A I know it was hydraulic oil.

8 Q Okay.

9 A I do know that. Now just to look at the
10 individual dumping it, I don't know, you know,
11 what kind of oil it is.

12 Q How do you know that hydraulic oil as opposed
13 to any other oil was dumped?

14 A Because the individual that was doing the
15 dumping was taking the oil off the die cast
16 floor by the machines in the vacuum cleaners.

17 Q Okay. And are you saying that -- You're saying
18 that what was dumped was the stuff that was
19 vacuumed up from the floor in the Die Cast
20 Department?

21 A That is correct.

22 Q And you're presumably inferring that there is
23 some leakage of hydraulic fluid so hydraulic
24 fluids were among those that were vacuumed up
25 and, therefore, dumped?

1 A That is correct.

2 Q Okay. But what was dumped was not pure
3 hydraulic fluid, it was whatever was vacuumed
4 up, is that correct, whatever was on the
5 ground?

6 A I would say whatever was on the ground, yeah.

7 Q Okay. Do you have any knowledge of people
8 taking pure hydraulic fluid and dumping it on
9 the ground?

10 MR. CARUSO: You mean on purpose?

11 MR. ASH: Yes.

12 A When you say "on the ground," are you referring
13 to the back 40 again?

14 Q Yes, the back 40.

15 A Pure hydraulic oil, like I say, again, I don't
16 know.

17 Q Okay. I think what you're -- I don't want to
18 put words in your mouth. I think what you're
19 telling me is you saw a couple of instances and
20 have heard of the dumping of used stuff around
21 the premises, but you don't know what exactly
22 was in the stuff that was dumped. Is that a
23 fair statement?

24 MR. CARUSO: Object to the
25 mischaracterization of testimony.

1 MR. ASH: He can tell me if it is.

2 A I do know it was oil. Again, I can say the
3 reason for dumping oil out there was because of
4 the gravel on the parking lot, to keep down the
5 dust. It was oil. Now I can't tell you, you
6 know, what kind of oil.

7 Q Okay. Do you have any sense that a point in
8 time came -- Well, let me approach it from this
9 way. Do employees today still dump used oil
10 around the premises at all?

11 A Not that I'm aware of.

12 Q Okay. When do you think the practice -- Do you
13 have any idea of when the practice stopped?

14 A No.

15 Q There has been some testimony, also, so I think
16 that there came a point in time when the die
17 cast machines were cleaned and flushed and
18 certain old hydraulic fluid was stored in
19 drums. Do you have any recollection of that
20 occurring?

21 A Yes.

22 Q After that occurred, do you have any knowledge
23 of there being any dumping of fluids around --

24 A Not that I'm aware of.

25 Q Okay. But before that you do have some

1 knowledge and awareness?

2 A Wait a minute now. Before what?

3 Q Before the time when all the die cast machines
4 were drained and flushed and the contents were
5 stored in drums on the premises and ultimately
6 hauled away.

7 A Okay.

8 Q Okay?

9 A Before that time, yes.

10 Q But not after that time?

11 A Not that I can remember, no.

12 Q Okay. Do you know of anyone else who actually
13 dumped used oil or fluids around the premises
14 other than -- other than the gentleman you just
15 named?

16 A Cliff White?

17 Q Yes.

18 A No more than what I heard. I did not see
19 anything.

20 Q Okay. Have you ever conducted any interviews
21 or asked around about what the practices were
22 with respect to dumping fluids back at any
23 point in time?

24 A No.

25 Q You never worked in the Die Casting Department;

ROGERS DEP.

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WISCONSIN

3 *****

4 MILWAUKEE DIE CASTING COMPANY,
5 SLYMAN INDUSTRIES, INC., and
6 THERESA A. SLYMAN,

7 Plaintiffs,

Case Number
93-C-0325

8 -vs-

9 FISHER CONTROLS
10 INTERNATIONAL, INC.,

11 Defendant.

12 *****

13 DEPOSITION of ARTHUR D. ROGERS, called as a witness
14 in the above-entitled matter, taken at the instance of the
15 Plaintiffs, under the provisions of Section 804 of the
16 Wisconsin Statutes, pursuant to notice, before Alis A.
17 Piasecki, a Notary Public in and for the State of Wisconsin,
18 at the Timber Inn in the City of Phillips, Wisconsin, on the
19 6th day of January, 1995, commencing at 11:30 o'clock a.m.

20 APPEARANCES:

21 Carl A. Gigante, FORAN & SCHULTZ, Attorneys at Law,
22 30 North La Salle Street, Chicago, Illinois,
23 appeared on behalf of the Plaintiffs.

24 Andrew Running, KIRKLAND & ELLIS, Attorneys at Law,
25 200 E. Randolph Drive, Suite 6100, Chicago,
Illinois, appeared on behalf of the Defendant.

Greg Slyman was also present.

1 present capacity in April of '93.

2 Q Okay. With respect to Fisher Controls, your employment
3 there, could you take me through that history in terms of
4 what positions you had--

5 A Okay.

6 Q --and whatnot?

7 A I went in, started as titled Assistant Personnel Director and
8 moved up within that function and was Manager/Employee
9 Relations by title in August of 1977 when I became Operations
10 Manager. Then in 1982 I can't remember what my title was.
11 It was-- I just don't remember. I did coordinating work for
12 the international organization as part of the marketing
13 function.

14 Q Okay. And then after that, after '82, you left Fisher?

15 A Yeah.

16 Q No, I am sorry. What happened after '82?

17 A I left Fisher in the latter part of '83.

18 Q Okay.

19 A And then went to work for IDS.

20 Q Now, while you were at Fisher did you at any time assume a
21 position at Milwaukee Die Casting Company?

22 A Yes.

23 Q Okay. When was that?

24 A In June of '81, 1981.

25 Q And what was the period of time of that position?

- 1 A It was from that time until February or early March of '82.
- 2 Q Now, what was the title that you had there at--while you were
- 3 at Milwaukee Die?
- 4 A General Manager.
- 5 Q Okay. Who did you report to as General Manager of Milwaukee
- 6 Die?
- 7 A Larry Kruse, K-r-u-s-e.
- 8 Q And what was Larry's position?
- 9 A I don't remember what he was titled. He had responsibility
- 10 for several of the--I will refer to them as incidental Fisher
- 11 locations such as the Fisher service companies and Milwaukee
- 12 Die.
- 13 Q And how was it that you were assigned to General Manager of
- 14 Milwaukee Die?
- 15 A I was-- My background in personnel committed me I guess to
- 16 go up there in large part because they had a union contract
- 17 that was about to expire. The General Manager who had been
- 18 there for many years prior to the acquisition had died
- 19 suddenly, and there was no one in place to back him up or to
- 20 fill that position. So Fisher management I guess decided
- 21 that Rogers would be the one to go up there and make sure we
- 22 get the union contract signed.
- 23 Q Was there anyone specifically who assigned you up to
- 24 Milwaukee Die?
- 25 A Principally Larry Kruse. He was the boss of the

1 a regular salary?

2 A I think we were paid by the month, maybe paid twice a month
3 at a monthly rate.

4 Q Did you receive any per diem amounts?

5 A Yes, I did. Initially it was--I vouchered everything through
6 expense accounts; and then when it looked like it was going
7 to take a while, and that was kind of a pain in the neck to
8 keep track of all those receipts and that, they put me on a
9 per diem.

10 Q You say they. Who was they?

11 A Fisher, Marshalltown.

12 Q Now, when you came over to Milwaukee did you still retain
13 your title that you had left behind or that was--that you had
14 when you came over from Fisher?

15 A Yes.

16 Q Okay. So, would it be fair to say you were wearing two hats
17 at the time?

18 A For a while, yeah; but the longer I was in Milwaukee the less
19 I could do about anything going on in Marshalltown, so just
20 for a little while.

21 Q Okay. Was Milwaukee Die a supplier to Fisher?

22 A Yes.

23 Q Okay. Was it a major supplier?

24 A Yes, indeed.

25 Q How long had it been a major supplier?

1 A It probably predates me, my association with Fisher, but I
2 don't know that. I know that in 1975 when it became
3 available and prior owners announced their intent to sell it
4 was a pretty significant supplier to Fisher principally in
5 the McKinney, Texas, operation, not so much in Marshalltown,
6 certainly some; but the biggest customer was McKinney
7 operation.

8 Q Were you aware of any attempts to sell the Milwaukee Die
9 plant prior to you being assigned to the General Manager
10 position?

11 A No.

12 Q Who reported to you at Milwaukee Die?

13 A Everybody that was located there. By names?

14 Q Oh, just--

15 A Engineering. Function?

16 Q Yeah. Who was your immediate subordinate?

17 A Earl Seuss, S-e-u-s-s. You never would have gotten it. I
18 just don't remember the names. Let's see. The personnel--
19 I can tell you by functions. Personnel; accounting, Ruth
20 Russell. Manufacturing operations reported to me, which
21 included both primary and secondary. Inspections,
22 operations, sales.

23 Q You said one of the tasks you were entrusted to do was to
24 have a labor agreement in place at Milwaukee Die. Did that
25 ever come to fruition while you were there?

1 A Yes.

2 Q Did you participate in any of those negotiations?

3 A I went in and gave the introductory talk, what we call the
4 poor mouth speech, and then went in when it was concluded
5 successfully and shook hands and rah-rah.

6 Q What were your responsibilities as General Manager at
7 Milwaukee Die?

8 A Well, it is implicit by the people that reported to me, run
9 the operation, maintain sales, maintain profitability, the
10 whole schmear. I had bottom-line responsibility. I was
11 measured by the P and L statement.

12 Q And how often would you be reporting to Mr. Kruse?

13 A In what sense do you mean reporting? Dialogue with him or--

14 Q On a day-to-day basis.

15 A Couple times a week.

16 MR. RUNNING: Objection to the form of the
17 question. It is ambiguous to what you mean by reporting.

18 MR. GIGANTE: Okay.

19 Q You were entrusted is it correct to say with the day-to-day
20 operations of that plant?

21 A That is right.

22 Q Okay. Let me show you what's been marked as--

23 A I didn't bring my glasses.

24 (A DISCUSSION WAS HELD OFF THE RECORD)

25 (EXHIBIT NO. 300 MARKED FOR IDENTIFICATION)

MR. GIGANTE:

1
2 Q Okay. Mr. Rogers, let me just show you what we have marked
3 as Exhibit 300, and it carries the date stamp MDC821, 822,
4 823, 824 and five and 26. Have you take a look at that.

5 A Okay.

6 Q Can you just identify what that multi-page exhibit is?

7 A Yeah. That was a contract between Milwaukee Die and the
8 Fisher operations in McKinney, Texas.

9 Q Okay. Did you participate in negotiating sales prices with
10 Fisher people?

11 A I tried to stay out of it as best I could because I knew that
12 eventually I would be going back to Marshalltown and I didn't
13 want to cloud the picture because in effect I was a dual
14 person, but I had the responsibility and certainly signed the
15 final agreement and I visited with--as I remember Earl and
16 Maynard Prebak were the ones that did the one-on-one
17 discussion with them.

18 Q I see. You say because you had kind of a dual role. Is that
19 because you had retained your title at Fisher while you were
20 still at Milwaukee?

21 A Yes. At that time-- At the time these negotiations
22 commenced or this dialogue commenced that resulted in this
23 contract I was still figuring on going back to Marshalltown
24 and my prior responsibilities.

25 Q The people in purchasing at Marshalltown had reported to you

1 did you have a role in trying to determine where these
2 barrels should be sent or what to do with these barrels? As
3 General Manager of Milwaukee Die did you undertake the
4 responsibility of disposing of these barrels?

5 A I had that-- I depended a great deal on other people, but
6 that was my responsibility.

7 (EXHIBIT NO. 304 MARKED FOR IDENTIFICATION)

8 Q Let me show you what we have marked as Exhibit No. 304, see
9 if you can identify that.

10 A Okay.

11 Q Okay. Is that your handwriting?

12 A Yes.

13 Q Okay. Is that a note that you made of a conversation, or can
14 you tell me what the--the foundation of that if you recall or
15 what that note was about, when it was made?

16 A Well, my guess would be it would be--it would have been fall
17 of '81. Again it looks like I am in-- I don't remember what
18 Chen Lin did, but he might have been--he probably was safety
19 engineer, environmental guy; and I am sending it to somebody
20 saying what we are going to do relative to probably the PCBs
21 that we had in those barrels.

22 Q Do you know, was that notes of a phone conversation or was
23 that a note you took after meeting?

24 A I don't remember.

25 Q Can I see it for just a second? Thanks. When you say we, we

1 will discuss with Mike McCoy, who are you referring to?

2 A It may have been to Larry Kruse. When I say we will discuss
3 with Mike McCoy the use of Chen Lin, then that implies that
4 Chen Lin worked in Mike's organization, and so we would
5 logically go through him to get some of the resource--some of
6 that resource time. "We have no experience in disposal, and
7 such technical assistance particularly given our time
8 parameters"--kind of a crappy note. Might have been one that
9 I wrote to myself. I don't remember.

10 Q This note would have been a note you made during the time
11 period you were trying to decide what to do with these
12 barrels?

13 A Yeah, prob-- My reference to time parameters, I assume that
14 has to do with selling the place.

15 Q Okay.

16 A There was no big rush on it except for that. They had been
17 there for a while.

18 (EXHIBIT NO. 305 MARKED FOR IDENTIFICATION)

19 Q Do you know how long those barrels had been there?

20 A No. I don't recall. My best recollection is they were there
21 when I got there, but I don't--I don't know how long.

22 Q Let me show you what we have marked as 305, ask you to take a
23 look at that.

24 A Okay. Now I had a chance to read it.

25 Q Okay. Can you identify that for the record?

1 A It is a longhand I sent to Larry Kruse. It says regarding
2 PCBs, but it is--it is a story of frustration of lack of
3 support.

4 Q When you say lack of support, regards to what?

5 A Well, in getting some assistance on the PCBs and guidance on
6 the divestiture.

7 Q So, is this a letter you wrote to Larry Kruse while you were
8 General Manager of Milwaukee Die?

9 A Probably, yeah. No letterhead on it or anything, but yes.

10 Q Okay. What-- Who is Gerald?

11 A Gerald Marichel, M-a-r-i-c-h-e-l I think.

12 Q Okay. And what position did he have?

13 A He was assigned the responsibilities as best I recall to
14 coordinate the divestiture of Milwaukee Die.

15 Q The sale of Milwaukee Die?

16 A Yes. Uh-huh.

17 Q The sale on February of--or the sale to the Slymans?

18 A Yes. His efforts culminated in that.

19 Q Earlier you mentioned Jim Teegarden. Who is he? You didn't
20 identify him.

21 A Jim Teegarden is referenced in these discussions in two
22 capacities. One, he was the General Manager of the McKinney,
23 Texas, operation when Fisher acquired Milwaukee Die; and at
24 the time that I was there in '81 he was--I don't remember his
25 title but he was in charge of Fisher North America, all

1 operation in North America.

2 Q The beginning of this note you say, "Somehow I think we are
3 off track on the disposal of the PCBs." What were you
4 referring to there?

5 A I don't remember. In context it looks like we had too many
6 people trying to help out or not enough of the right people
7 helping out. The reference to John Wheeler in there, there
8 was the John Wheeler I referenced earlier that had died, he
9 had been the General Manager of Milwaukee Die. This John
10 Wheeler worked in the maintenance organization, facilities
11 engineering in the Marshalltown operation.

12 Q At Fisher?

13 A At Fisher, yeah. No relation.

14 Q Okay.

15 A Just coincidentally the same name.

16 Q In here you say-- In this letter you say that, "You,"
17 meaning Mr. Kruse, "later told me that this was--this was
18 because Jim Teegarden didn't want our dirty laundry, my
19 expression not yours, hung out in front of D building." By
20 the way, what's the D building?

21 A That's the headquarters, the ivory tower of the brass, of--
22 the white house that's on campus at Monsanto, and that's
23 where the executives-- It's kind of the expression if you
24 want to refer to where those decisions come from, D building,
25 topside, short way of referring to top management.

1 Q What is he talking about when he says our dirty laundry? Or
2 that was your expression. I mean what were you referring to
3 there?

4 A PCBs I suppose.

5 Q Who is Dr. Craddvik?

6 A I don't remember. He must have been an environmental guy at
7 Monsanto. That's not a Fisher name and not Milwaukee Die.

8 Q It says here, "You," being Larry Kruse, "closed the
9 conversation by asking me to--that I call him, Dr. Craddvik."
10 Did you call him?

11 A Not that I recall. Didn't sound like I had any appetite to
12 either.

13 Q Here you say you--after reflecting on it you don't see any
14 good it would do to call him in view of the reaction you got.
15 What reaction did--

16 A Larry Kruse, the addressee.

17 Q Did he get--

18 A Didn't it say there he had called him and Craddvik had said
19 something about he didn't think he wanted our help.

20 Q That's what you are referring to?

21 A Yeah.

22 Q You say, "If I call him, won't we merely accomplish what Jim
23 Teegarden most wanted to avoid?" What do you mean by that?

24 A Well, in the context, and I don't recall this memo at all,
25 but in the context it would appear that Jim wanted Fisher to

1 take care of this problem without involving Monsanto.

2 Q Okay.

3 A And he didn't want-- So therefore if I called Craddvik
4 aren't I just accomplishing the opposite of what Jim wanted.

5 Q You said that this was a letter of frustration?

6 A Yes.

7 Q What did you mean by that?

8 A You know, I could probably explain it best with an analogy as
9 I reflect on that. Imagine if you are the ambassador of your
10 country to a foreign country, say you are Brazilian and you
11 are Ambassador to India, and a palace revolution occurs in
12 your home country and you are over in India and you are
13 trying to figure out what the hell was going on; and that was
14 the context of that memo.

15 At that time Fisher was undergoing dramatic changes.
16 People were--and I didn't know it. People, my friends, some
17 of my peers, would tell me that; but I was in Milwaukee, and
18 I was pretty much shielded by it; and I just think that was
19 written in an environment of--that memo was environment of
20 where I was hollering for help. I didn't have individually
21 any expertise. I felt that, you know, I was--my charter had
22 changed. I went up there to get the contract, but now I was
23 up there to assist in the sale of the company. The PCBs
24 could be an impediment, or at least it would be a lot cleaner
25 bill of sale if we could get them out of there, and I needed

1 some help, and I was trying to get help and I was running
2 into a bunch of political stuff and I didn't understand it.
3 I didn't understand what was going on. It was later that I
4 realized what was happening; and it could all be likened to
5 conjecture, too.

6 Q Eventually this issue was resolved by having the barrels sent
7 to Texas?

8 A That is correct.

9 Q Did you get a response from Mr. Kruse to this letter?

10 A Probably not.

11 Q Why do you say probably not?

12 A Oh, Larry wasn't real good about responding. He might call
13 and placate me, but he wasn't much of a-- I liked to write
14 longhand memos, and that wasn't Larry's style.

15 Q Let me show you a document we have already marked as an
16 exhibit I believe at Mr. Seuss' deposition. It is Exhibit
17 213. Could you look at that for a minute?

18 A Okay.

19 Q Just for the record, under--the writing at the bottom which
20 starts with "Earl," is that your writing here?

21 A Yes.

22 Q And above that, can you identify that writing?

23 A That's Earl's, Earl Seuss'.

24 Q Did you receive this--

25 A Well, hold that. I am not a hundred percent sure it is

1 out of a conversation, or what generated that if you recall?

2 MR. RUNNING: Same objection, lack of
3 foundation. The witness said he didn't recall the note.

4 MR. GIGANTE: Yeah, but he might recall the
5 conversation that led to the note.

6 MR. RUNNING: Go ahead.

7 THE WITNESS: I am thinking. I couldn't
8 swear that this was-- I couldn't give a context. It is
9 logical that it could have been something that resulted from
10 a conversation from a longhand note I put on his desk. It
11 could have been he gave it to me when I was up there in '85
12 or '86. There is no date. I just don't remember.

13 MR. GIGANTE:

14 Q When you say I need--"Earl, I need the what-if costs for
15 draining, sampling and refilling, also when was the parking
16 lot hard surfaced," first of all, what are you looking for
17 when you said, "I need the what-if costs for draining,
18 sampling and refilling"?

19 A He refers to here, well, we don't have to do that three
20 months after fluid change, which was done because machine was
21 above 50 parts per million. My question is all right, if we
22 have to do that what is it going to cost, okay, to drain the
23 samples, to sample and refill the machines, what is it going
24 to cost us to do it. That's a concern a General Manager
25 would have, you know. And the other has to do with his

1 statement about the grounds around the die cast area could be
2 contaminated.

3 Q Had you asked or inquired into the possibility of the grounds
4 around the die cast area having been contaminated?

5 A I don't think so. I don't recall.

6 Q Did you do any investigation into that at all while you
7 were--

8 A About contamination of the grounds?

9 Q The contamination of the grounds around the die cast area.
10 Did you investigate that at all?

11 A No. You mean have it sampled, soil tested or anything like
12 that?

13 Q To see if that had occurred.

14 A Not that I recall.

15 Q You ask about the parking lot being hard surfaced. What was
16 the reason for that?

17 A Because he makes a reference here the fluid could have been
18 disposed of by dumping on the grounds around the die cast
19 department, and if it is hard surfaced the PCBs are
20 contained. That was my question, was it hard surfaced
21 subsequent to the--what he thinks is--might have been
22 disposed of by dumping on the grounds.

23 Q Let me show you what we have already marked as Exhibit 77,
24 ask you to take a look at that.

25 A Okay.

- 1 Q All right. Do you know what this is? Can you identify that
2 note?
- 3 A It looks like a response to my--the last memo, that earlier
4 exhibit.
- 5 Q This is Earl--Earl's handwriting?
- 6 A In the lower right-hand corner it looks like the way he
7 signed his name. So I would say yeah, that is his
8 handwriting, his printing.
- 9 Q Okay. This-- So, you can identify this as a response to
10 your--to Exhibit 213?
- 11 A That would be my guess. It is a logical follow-through.
- 12 Q You see at the bottom where he says parking lot was paved in
13 1968?
- 14 A Right.
- 15 Q That would have been in response to one of your questions
16 previous?
- 17 A That is correct.
- 18 Q Says sent copy to D. Green on 1-29. You see that at the very
19 top?
- 20 A Yes.
- 21 Q Whose writing is that?
- 22 A That's my writing.
- 23 Q Who is Dennis Green? Is that Dennis Green?
- 24 A That's Dennis Green. He was an attorney for Monsanto. He
25 did the legal work on the sale of the company.

1 Q Okay. So, now having seen this Exhibit 77 now are you able
2 to identify it--when you received--approximately when you
3 received Exhibit 213?

4 A Yeah. At least I can conjecture with a lot more certainty.

5 Q I don't want your conjecture.

6 A That's the best you are going to get. My guess would be that
7 Denny Green called me and asked me to fill him in on these
8 matters, I went to Earl and said I need this information to
9 give to Denny Green, Earl responded to me and I sent it on to
10 Denny Green.

11 Q So, would it be fair to say that this information was being
12 generated and provided in January of '82?

13 A Yeah. That would be my guess.

14 Q You wouldn't be sending something to Dennis Green in '85 or
15 '86?

16 A No. That's right. That is correct.

17 Q So, it is fair to say, is it not, Mr. Rogers, that these
18 documents were received--or I should say, yeah, the Exhibit
19 213 you would have received sometime in--in '81?

20 A Well, it is reasonable. It is reasonable.

21 Q Okay. You wouldn't have been receiving this document in
22 1985, 213?

23 A If those two were connected, and they seem to be, no, I would
24 not have.

25 Q Okay.

1 A Can we take about five minutes?

2 (A BREAK WAS TAKEN)

3 MR. GIGANTE: Okay. We can go back on the
4 record.

5 Q While you were a manager of Milwaukee Die and between June of
6 '81 and February of '82, did you become aware of any
7 information concerning the spillage of PCBs in or around the
8 plant?

9 A I don't think we had any spillage while I was there, no.

10 Q Did you become aware of any past spills of any kind, PCBs?

11 A Not as such other than that reference that Earl--if that's
12 Earl's longhand in that memo.

13 Q Exhibit 213?

14 A Yes. Uh-huh.

15 Q Okay. This would have been the only information you received
16 relative to that, the information contained in Exhibit 213?

17 A As best I recall. You know, that would have elicited some
18 discussion or caused some discussion relative to it, probably
19 extended beyond that memo, but I don't recall anything else.

20 Q Discussion with whom?

21 A Well, Earl, Maynard.

22 Q Between you and Earl and you and Maynard?

23 A Yeah, probably.

24 Q Okay. Do you recall the nature of those discussions?

25 A I don't even recall the discussions, but it is logical that

1 they would have occurred.

2 Q What if any decision was made with respect to there being
3 this strong possibility of PCBs around the die cast area?
4 Was there any decision made about approaching that issue or
5 what? Was there anything along those lines?

6 A Did we do anything as a result of Earl's concern that there
7 may have been some contaminants in--

8 Q Right.

9 A --the parking lot; is that what you are talking about?

10 Q Yeah, the area that he is referring to here in Exhibit 213.

11 A Yeah. Not that I recall.

12 Q Okay.

13 (EXHIBIT NO. 306 MARKED FOR IDENTIFICATION)

14 MR. GIGANTE:

15 Q Show you what we have marked as Exhibit 306. All I want to
16 do-- Well, take a look at it first, Mr. Rogers, then I will
17 ask you some questions about it.

18 A Okay.

19 Q Okay. Just first of all is that your writing?

20 A Yes.

21 Q Okay. And it is a multi-page document. Could you just
22 briefly identify it for the record?

23 A It is a letter to a fellow either in environmental services
24 or purchasing in Monsanto relative to the costs associated
25 with PCBs in the Milwaukee Die Casting plant.

1 Q Do you know who Phocion Park is?

2 A I don't remember him, no.

3 Q Is this dated, Mr. Rogers?

4 A It is dated January 22nd of 1982.

5 Q Were you asked to furnish this information to Mr. Park?

6 A So it would appear, yes.

7 Q Okay. That's all I want to ask you about that.

8 (EXHIBIT NO. 307 MARKED FOR IDENTIFICATION)

9 MR. GIGANTE:

10 Q Show you what's marked as 307. Take a look at that for a
11 second.

12 A Okay.

13 Q Is that your handwriting?

14 A Yes.

15 Q Can you identify that briefly?

16 A Bringing Larry Kruse up to date on where we are on the PCB
17 disposals.

18 Q Is that dated?

19 A Status as of October 28th, 1981.

20 Q Did Mr. Kruse ask you to keep him updated on the status of
21 the PCB removal?

22 A Well, no, I don't-- He might have. He had a responsibility.
23 Larry was a laid-back guy, and this was in the context of
24 getting the place all ready to put on the market, and I felt
25 compelled to keep him informed even if he didn't specifically

1 Q Did you answer his questions truthfully and accurately to the
2 best of your ability?

3 A Yes, I did.

4 Q Did you ever do anything with the intention of defrauding the
5 Slymans prior to the sale of the business to them?

6 A Never, and I am offended by the question.

7 Q Well, it is-- Believe me, I wouldn't ask the question unless
8 an allegation had been made.

9 MR. GIGANTE: I will object to that. There
10 was no allegation made about-- I will object to that
11 question--that statement.

12 MR. RUNNING: Well, look at the first
13 complaint.

14 THE WITNESS: Some of my best-- This is on
15 the record. Some of my best memories of my life were the
16 times that George and David and I would go out and talk and
17 drink and swap jokes and things like that. I developed very
18 quickly, as you can with George if you know him, a very warm,
19 caring personal relationship that carries on to this day. I
20 would have never, ever done anything to mislead the guy; and
21 he wasn't involved in that anyway. He had--he had some very
22 competent people with him that would-- Bob Auer was a sharp
23 accountant. He could talk right past me, and I knew it; and
24 he had another fellow up there that was--in terms of a
25 personality he was an idiot, but he had spent his life in die

SLYMAN DEP.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MILWAUKEE DIE CASTING COMPANY,
SLYMAN INDUSTRIES, INC., and
THERESA A. SLYMAN,

Plaintiffs,

vs.

Case No. 93-C-0325

FISHER CONTROLS INTERNATIONAL,
INC.,

Defendant.

DEPOSITION OF GEORGE J. SLYMAN

and GREGORY SLYMAN, was taken at the instance of the Defendant, under and pursuant to the provisions of Section 804.05 of the Wisconsin Statutes, and the acts amendatory thereof and supplementary thereto, before me KATHY A. HALMA, Registered Professional Reporter and Notary Public in and for the State of Wisconsin, at the law offices of Godfrey & Kahn, 780 North Water Street, Milwaukee, Wisconsin, on the 15th day of December, 1994, commencing at 10:00 o'clock in the forenoon.

1 last name?

2 MR. GREG SLYMAN: Healy.

3 THE WITNESS: Dan Healy. I believe
4 he is. I'm not sure.

5 BY MR. RUNNING:

6 Q And he's the general manager, you said?

7 A Yes, I believe he is.

8 Q Who are the current members of the board or
9 directors of Milwaukee Die Casting Company?

10 A I can't tell you. I don't know.

11 Q Are you one of them?

12 A No.

13 Q Any of your family members on the board of
14 directors?

15 A I imagine they are.

16 Q Does your family own a controlling interest in
17 Milwaukee Die Casting Company?

18 A They own Slyman Industries which has a
19 controlling interest in Milwaukee Die Casting
20 Company, yes.

21 Q Does Slyman Industries own all the stock of
22 Milwaukee Die Casting Company?

23 A I believe so.

24 Q Who owns the common stock of Slyman Industries?

25 A My four children, myself and my wife.

1 Q What are the names of your four children in
2 addition to [REDACTED]?

3 A [REDACTED]

4 Q [REDACTED]?

5 A [REDACTED]. That's
6 one word.

7 Q Is [REDACTED] involved in the
8 business of Milwaukee Die Casting Company?

9 A The day-to-day operation of it? Is that what
10 you mean?

11 Q I'm sorry?

12 A The day-to-day operation of the company? Is
13 that what you're asking?

14 Q In any respect, either day-to-day or some other
15 basis.

16 A He may be involved through the board. I'm not
17 sure.

18 Q He may be on the board of directors?

19 A He may be. I don't know who the board of
20 directors are right now.

21 Q What percentage of the common shares of Slyman
22 Industries does [REDACTED] [REDACTED] own?

23 A [REDACTED].

24 Q [REDACTED]. And is [REDACTED] --
25 what's her last name?

1 A [REDACTED]. They're all [REDACTED].

2 Q Is [REDACTED], what is her percentage
3 ownership of Slyman Industries?

4 A [REDACTED].

5 Q [REDACTED], what is his percentage?

6 A [REDACTED].

7 Q I'm detecting a pattern. And if I were to
8 guess that [REDACTED] had [REDACTED] --

9 A You would be 100-percent right. [REDACTED]
10 [REDACTED].

11 Q How long has this distribution of the common
12 stock of Slyman Industries been in effect?

13 A Since the inception. Sometime in late-'81.

14 Q What was the name of Slyman Industries -- What
15 was the prior name of Slyman Industries?

16 A I don't recall.

17 Q As you recall, you were at Mr. Glaser's
18 deposition and he testified that it was a
19 holding company that had -- for whose shares
20 had not yet been issued but it wasn't in
21 existence before the end of 1981.

22 A It was Pentigo Gas or something like that. I
23 don't recall.

24 Q Then its name was changed sometime prior to
25 February 23, 1982 to Slyman Industries; is that

1 correct?

2 A I believe that's correct.

3 Q Prior to February 23, 1982, was the
4 distribution of the common shares of Slyman
5 Industries as you have just indicated or was
6 there a different distribution?

7 A As far as I recall, there was only one
8 distribution and it was done at that time and
9 it's always been the same. The distribution of
10 the shares has never changed, to my knowledge.

11 Q Is there any legal agreement in place that
12 affects the control of Slyman Industries such
13 that you or your wife would have control over
14 the affairs of the company, even though you
15 don't have majority interest in the shares?

16 A There's a trust that has the voting shares, and
17 I don't recall what year that was put into
18 effect, but there's a trust that controls the
19 voting shares and my wife and I -- I believe we
20 have all the voting shares, but ours are in a
21 trust.

22 Q So all voting shares in Slyman Industries are
23 controlled by a trust?

24 A Yes.

25 Q Who is the trustee?

- 1 A [REDACTED].
- 2 Q [REDACTED].
- 3 A Right.
- 4 Q Do you exert any controlling influence either
- 5 through the trust or otherwise?
- 6 A You're talking about today?
- 7 Q Let's first deal with today.
- 8 A Yes. No, I don't.
- 9 Q What about prior to today? Did you observe any
- 10 control through the trust or otherwise?
- 11 A At one time I was chairman of the board.
- 12 Q But as chairman of the board did you have -- I
- 13 guess what I'm asking is did you have any
- 14 authority to control the voting shares as you
- 15 termed them of the company either through the
- 16 trust or otherwise?
- 17 A I have never controlled the trust, so I have
- 18 never had control of the shares. So when the
- 19 trust was put in effect, I don't recall what
- 20 year, I have had no control, if that's the
- 21 question you're asking.
- 22 Q Has [REDACTED] always been the sole trustee
- 23 of the trust?
- 24 A I don't recall.
- 25 Q Do you recall anyone else exercising control of

SUESS DEP.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

MILWAUKEE DIE CASTING COMPANY,
SLYMAN INDUSTRIES, INC., and
THERESA A. SLYMAN,

Plaintiffs,

vs.

FISHER CONTROLS INTERNATIONAL,
INC.,

Defendant.

DEPOSITION of EARL L. SUESS, taken at the
instance of the Defendant under and pursuant to the
Federal Rules of Civil Procedure and the acts amended,
and pursuant to notice, before me, MICHELLE JEAN
CONOVER, Registered Professional Reporter and Notary
Public in and for the State of Wisconsin, at the law
offices of GODFREY & KAHN, 780 North Water Street,
Milwaukee, Wisconsin, on the 16th day of December, 1994,
commencing at 10:00 o'clock in the forenoon.

1 A Earl L. Suess, S-U-E-S-S.

2 Q Are you retired, sir?

3 A Yes.

4 Q What's your current residential address?

5 A [REDACTED],

6 [REDACTED].

7 Q Mr. Suess, I want to thank you for coming today
8 voluntarily, and we will --

9 MR. RUNNING: Mike, if you could
10 arrange for your secretary to send Mr. Suess the
11 standard witness fee.

12 MR. ASH: Absolutely. We would be
13 glad to do that.

14 BY MR. RUNNING:

15 Q Mr. Suess, could you briefly describe your
16 employment history.

17 A Started Milwaukee Die Casting, I believe it was
18 1947. I worked in the tool room -- or worked in
19 the die cast first as a die caster and then took
20 apprenticeship at Milwaukee Die Casting and --
21 for tool and die making and became a tool maker
22 after five years, someplace around 1952, at
23 which time I quit, and I went to a tool and die
24 shop for one year and then was asked to return
25 in a management position at Milwaukee Die

1 Casting, which I accepted and returned as
2 assistant plant superintendent and stayed at
3 that position for approximately four or five
4 years, and then became plant superintendent.

5 Q So approximately 1958 you became plant
6 superintendent?

7 A I really --

8 Q Give or take a year or so?

9 A I don't know for sure --

10 Q Okay.

11 A -- positively. I'm just saying I know that's
12 the way the sequence went.

13 Q Sure.

14 A And plant superintendent for, gee, I don't know,
15 at one time probably two years after I was plant
16 superintendent, I took over the engineering
17 also, so I was plant superintendent and plant
18 engineer.

19 Q So in about 1960, approximately, you took on
20 that title as well?

21 A I'm not sure, but that's the way the sequence
22 went.

23 Q So approximately 1960 you became both plant
24 superintendent and plant engineer?

25 A Um-hum.

1 Q Okay.

2 A And then I can't remember. I went from that
3 position to vice president of engineering.

4 Q How long after 1960 would that have happened?

5 A That was probably around 1968. We built a new
6 addition to the building at that time, and I
7 believe that's when I was right -- made vice
8 president of engineering and -- and Fisher
9 bought us in '75, I believe, I'm not sure. And
10 then '75 I was no longer vice president of
11 engineering, I was manager of engineering.

12 Q And when did that change in the --

13 A With the Fisher sale -- With the Fisher
14 purchase.

15 Q So January 1975 is when Fisher purchased the
16 common stock --

17 A I don't know when they did, but when they
18 purchased them, because I was no longer -- I was
19 not a graduate, four-year graduate. In Fisher,
20 you got to have a four-year graduate in order to
21 be somewhat in -- well, with a vice president,
22 president title.

23 And I remained at that until, gee,
24 I don't know, I think it was -- I don't know
25 just when it was. It was probably in the '80s,

1 late '80s I was given a different title. I
2 can't remember what it was -- Oh -- What the
3 heck was it, now? Technician -- I can't think
4 of it. Gave me a different title.

5 Q Did your job responsibilities change at that
6 time?

7 A Yeah. In fact, it was after my heart attack
8 that one of the things -- one of the things was
9 lower the load, so they gave me a different
10 title, and that was after George bought the
11 place.

12 Q Okay. So it could have been the early 1980s
13 then; he bought the common shares on February
14 23rd, 1982?

15 A Okay. Well, maybe 1983 or so. I'm not just
16 sure. But it was -- They reduced my load
17 and -- and more or less act like an adviser, and
18 that became more and more being an adviser until
19 I finally retired.

20 Q And when did you retire?

21 A '91.

22 Q Did you have any prior work experience before
23 you joined Milwaukee Die Casting in 1947?

24 A I was a owner of a grocery store, supermarket.

25 Q Okay. And did you sell that grocery store to

1 Sentry Foods or Godfrey (phonetic) or --
2 A Un-unh, no. I sold it to my partner.
3 Q Mr. Suess, have you ever given a deposition
4 before?
5 A Um-hum.
6 Q So you understand everything you say is under
7 oath?
8 A (Witness nods head.)
9 Q You need to answer yes or no so she can --
10 A Yes.
11 Q Okay. It's one of the things that's hard to
12 remember about depositions, is things that we do
13 in ordinary conversation don't work well.
14 A I can't shake my head.
15 Q Exactly, yeah. I'll try to remember that as
16 well. If I ask you a question you don't
17 understand, if you want a question repeated,
18 just let me know. I'll assume if you answer a
19 question, Mr. Suess, that you understood it and
20 you're able to give a full and complete answer.
21 A Okay, yeah.
22 Q Is that fair enough?
23 A Yeah.
24 Q Okay. When you joined Milwaukee Die Casting
25 Company in 1947, was it owned by the Schroeder

1 family?

2 A Yes.

3 Q Who was the manager of the plant; who was
4 running the plant?

5 A You mean the owner or --

6 Q Well, was the owner running the plant as well,
7 or --

8 A There was a plant superintendent. His name was
9 Charles Grebe.

10 Q Was a member of the Schroeder family involved in
11 the business?

12 A Yeah. Fred Schroeder was there every day, and
13 so was Henry Schroeder.

14 Q And what relation was Henry Schroeder to Fred;
15 was he the father or --

16 A Cousin.

17 Q Cousin, okay. Where was the plant located in
18 1947?

19 A Fourth and State.

20 Q Is that downtown?

21 A Um-hum. In fact, there's a -- There's a
22 parking lot built over it, or very close to it.
23 It's a parking lot is what it is right now.

24 Q How many die casting machines were in operation
25 at that facility when you joined the company?

1 caster, and then you did your tool and die
2 apprenticeship?

3 A Yes.

4 Q And then you left for a tool and die shop in
5 1952?

6 A Yes.

7 Q When you came back to Milwaukee Die Casting
8 Company in the management position, had the
9 plant already moved from downtown to its current
10 location?

11 A Yes.

12 Q Do you remember what time of the year in 1953
13 you moved to Milwaukee Die at this new location?

14 A No, I don't. I --

15 MR. CARUSO: I'm sorry. Were you
16 asking when the company moved or when --

17 MR. RUNNING: No. When Mr. Suess
18 himself moved.

19 MR. CARUSO: Okay.

20 THE WITNESS: I have no idea. It
21 was -- I don't even know if '53 is exact, you
22 know. Or that could be handled, you know, by
23 personnel records.

24 BY MR. RUNNING:

25 Q Well, I don't have it with me, but I've seen a

1 permit to occupy the building that I believe was
2 dated in 1952 for the new plant on Holton
3 Street.

4 A Okay.

5 Q So I think you're pretty close, at least in
6 terms of the time frame.

7 A Yeah. I'll tell you, I had -- I was one of two
8 people who went to the new plant as a apprentice
9 and helped set up machines that were being moved
10 from the old plant to the new plant.

11 Q Let me -- Could you tell me everything you know
12 about the planning for the new facility; were
13 you involved in that at all?

14 A Not at all.

15 Q Okay.

16 A Never seen it until the day I was told to go up
17 there and help move machines.

18 Q Did you see the facility before they had
19 actually moved the machines?

20 A No.

21 Q Was it the moving day itself?

22 A Well, what they did is they moved gradually.
23 They'd take one or two machines, and then they
24 brought it up, and then this Otto Mikelson and
25 myself, we would drill some holes in the floor

1 back to the start, these are the first
2 documents --

3 A Um-hum.

4 Q Let me ask you this, before we get into the
5 documents themselves. Did you observe any leaks
6 in the hydraulic systems during your early years
7 with Milwaukee Die Casting Company either at the
8 Fourth and State plant or the North Holton
9 Street plant?

10 A Let me say this. There are leaks in every piece
11 of hydraulic equipment, no matter what or where
12 it is.

13 Q Okay.

14 A There are leaks.

15 Q Yes. Did the plant have a preventative
16 maintenance program in place in the 1950s to try
17 to minimize leakage?

18 A Yes. Yes, that was one of the things that you
19 did on Saturdays; you went around and either
20 welded or tightened up or whatever you had to do
21 to stop the leak. Stuff was expensive.

22 Q And did hydraulic fluid get more expensive as
23 the years went on?

24 A And how, yeah.

25 Q Did that give an incentive for the plant to be

1 even more diligent in preventing leaks?

2 A Yeah. Well, you had two things going for you.
3 You couldn't have the stuff on the floor and
4 people slip and fall on the stuff. It was a
5 safety too, because it was slippery. And so
6 it -- Leaks were -- I would say almost
7 immediately cleaned up.

8 And if it was a valve leak or, you
9 know, if it was dripping just slightly, there
10 was buckets, so you put a bucket under that
11 thing and catch it so it wouldn't go on the
12 floor.

13 Q But as time went on and hydraulic fluid prices
14 went up, did that increase the incentive to be
15 diligent in preventing leaks or stopping them
16 once they occurred?

17 A I think they were always diligent in trying to
18 stop the leaks. I don't -- It was, you know,
19 because the price of the material was so high at
20 the end that, yeah, you -- you'd think you'd put
21 more effort into that, and maybe there was some
22 effort in that line, where there was a fellow
23 named Bill Bowman (phonetic) who I really don't
24 know his title, but I think he was plant
25 superintendent at the time around '75, '75-'76,

1 someplace in there.

2 Q And --

3 A And he -- He recognized the leaks, you know, so
4 he -- What he did is he built a -- like a dike
5 around the machines, you know, something --
6 This was about, I don't know, three inches high,
7 and built this thing around the machines so it
8 would not stray away from the machines any more
9 than beyond the dike, you know.

10 Q Did he put in a system to collect any leaks
11 within those dikes, or were they -- How were
12 the spills collected --

13 A They were picked up with a vacuum.

14 Q And then where was the vacuumed material put?

15 A I think what they did is they refiltered it.
16 They -- We had a -- had a number of filters,
17 and then they refilter it and use it again.

18 Now, that's -- This is when, like
19 in '75, you know. Later on, that became a
20 water-glycol. It was no longer 312, it was no
21 longer F-9, it was no longer any of the oils.
22 It became water-glycol, and water-glycol was
23 just thrown out. It was biodegradable stuff
24 that was -- and a lot cheaper. Most of it was
25 water.

1 machines, these were all pipes with threads, and
2 they get -- The vibration from the machine
3 would loosen them up, and then they would start
4 seeping and dripping and --

5 Q. Okay.

6 MR. CARUSO: Just for the record,
7 my copies that you gave me are not marked with
8 exhibit stickers.

9 MR. RUNNING: I'm sorry, Carmen. I
10 apologize.

11 MR. CARUSO: Either that or you
12 could call out your Bates stamps, and you
13 could --

14 MR. RUNNING: No. I think I have a
15 copy. Could you mark this as Exhibit 82.
16 Well -- Just for the record, the witness was
17 looking at Exhibit 82 during this questioning,
18 Bates number MDC5770. If you could just initial
19 it and put today's date on it, I'd appreciate
20 it.

21 (Exhibit Number 82 was marked.)

22 BY MR. RUNNING:

23 Q. Why don't I show this to the court reporter, and
24 maybe she could mark this. Mr. Suess, the court
25 reporter will mark as Defendants' Exhibit 83 an

1 October 14, 1960, letter that Mr. Elmer P.
2 Wheeler of Monsanto appears to have sent you.

3 (Exhibit Number 83 was marked.)

4 BY MR. RUNNING:

5 Q Mr. Suess, the court reporter has marked as
6 Exhibit 83 an October 14, 1960, letter from
7 Monsanto to you. Do you remember receiving this
8 letter?

9 A To tell you the truth, no.

10 Q Do you have any reason to believe you didn't
11 receive it?

12 A No. It's just that what I see in here is what I
13 knew.

14 Q Sure.

15 A And I -- I just -- See, that's where I got
16 hydrochloric from, and it really was not the
17 hydrochloric, it was the -- It was a chlorine.

18 Q Now, the first letter -- The first sentence of
19 the letter reads, Mr. Arbogast has reported your
20 comments about the effluence of heavy, white
21 vapors when molten aluminum spills on die
22 casting room floors, which may be saturated with
23 one or more of the Pydraul fluids; do you see
24 that?

25 A Yes.

1 this addition, how did the plant receive and
2 store its hydraulic fluid; was it in barrels --
3 Was it contained --

4 A As far as I know, it was always in barrels,
5 except -- There was a time when we -- Oh, when
6 we built the plant, that was it, yeah. When we
7 built the plant in 1968, we had a holding tank,
8 and we would buy in bulk then.

9 Q All right. That's what I was getting at. In
10 other words, before 1968, hydraulic fluid was
11 purchased and stored in 55-gallon barrels; is
12 that correct?

13 A Um-hum, yeah.

14 Q And then in 1968 you -- as a part of the
15 addition, you put in a holding tank?

16 A Yeah, to save money again. Same old story. You
17 got it for less money if you buy in bulk.

18 Q Buy in bulk. And did you buy in bulk by rail or
19 by truck?

20 A Truck.

21 Q And thereafter did you continue to buy it in
22 bulk?

23 A Yeah. I don't -- Well, I don't know, but I
24 don't think we would have bought in drums
25 anymore. It's possible that maybe they didn't

1 A 4132?

2 Q Yes.

3 A Okay. North Holton, yeah.

4 Q Who was the director of purchases in 1970?

5 A 1970, you say, huh? There's a guy named Jim
6 Knight (phonetic). And the other fellow, his
7 name is on the tip of my tongue, but I can't
8 remember it right now. Howard Wickert
9 (phonetic). Howard is dead, and Jim Knight, I
10 haven't the slightest idea where he is.

11 Q Do you know Mr. Knight is still alive, or do you
12 know?

13 A (Witness shakes head.)

14 Q Don't know?

15 A Just don't know.

16 Q Referring to the last paragraph on the second
17 page of the letter, the -- Mr. Olson writes, we
18 feel that all possible care should be taken in
19 the application, processing, and appropriate
20 disposal of these products to prevent them
21 becoming environmental contaminants.

22 And then he refers to the attached
23 Chemical Week article, and he says this article
24 reflects that good environmental practice in the
25 future may require that no products used by any

1 company should find their way into the
2 waterways.

3 A Never seen it.

4 Q I understand. What I want to ask, Mr. Suess, is
5 was this the policy of Milwaukee Die Casting
6 Company in 1970; whether or not you remember
7 receiving a letter, is it fair to say that you
8 were taking all possible care to prevent the
9 release of hydraulic fluid into the environment?

10 MR. CARUSO: I object. There's no
11 foundation to the question, and it's very
12 ambiguous as to what all possible care means.

13 THE WITNESS: Yeah. I don't know.
14 I can't tell you what -- You know, I'm just --
15 I don't know what all possible care is. If you
16 went around with a sponge and, you know --
17 Obviously, at that time was not the center of
18 attention that it was in the later years, that's
19 all, you know. At this time it was not a
20 carcinogen yet.

21 BY MR. RUNNING:

22 Q You've testified already, though, that in the
23 '50s and '60s, because hydraulic fluid was as
24 expensive as it was, that you treated it like a
25 very valuable --

1 A Yeah. When you make a statement all possible
2 care --

3 Q Okay.

4 A -- that carries -- That's -- I can't say we
5 did everything possible. We tried our best, but
6 maybe we didn't do it good enough.

7 Q Is there anything that you did in the later
8 years that you didn't do around 1970 to prevent
9 releases of hydraulic fluid into the
10 environment?

11 A Well -- Well, I can't say -- It's pretty much
12 the same -- You know, the floor was usually
13 dry. The floor was -- We'd put Speedy Dry. If
14 we had a leak, you'd pick it up with a vacuum
15 cleaner, then you'd take and you'd put some
16 Speedy Dry on it, which is a clay stuff, and
17 then you'd let that soak up whatever -- anything
18 left, and then you swept it up, and that's how
19 it was handled.

20 Q And then the material from the vacuum cleaner
21 was filtered and reused?

22 A Refiltered and reused again.

23 Q Okay. Without saying whether -- I take it you
24 don't remember seeing this particular letter?

25 Do you remember seeing any letters from Monsanto

1 it should go.

2 BY MR. RUNNING:

3 Q And this is -- The president was Mr. Fred
4 Schroeder?

5 A Um-hum.

6 Q That's all I have on that. Thanks. And the
7 next exhibit we'll ask the court reporter to
8 mark as Exhibit 87, first page of which is a
9 February 1, 1972, Monsanto memorandum enclosing
10 a January 31, 1972, letter from Monsanto to its
11 Pydraul customers.

12 (Exhibit Number 87 was marked.)

13 BY MR. RUNNING:

14 Q And again, Mr. Suess, I'm sure you never saw the
15 first page, which was an internal Monsanto
16 memorandum. I'd like you to turn to the second
17 page, which is a January 31, 1972, letter. Do
18 you remember ever seeing this letter?

19 A No.

20 Q The last --

21 A In fact, they spelled biphenyls wrong.

22 Q The last sentence in the first paragraph reads,
23 our new fluids will contain no chlorinated
24 components; do you see that?

25 A Yeah.

- 1 Q Were you informed, whether by this letter or
2 otherwise --
- 3 A Well, as I told you, in '68, we were trying it
4 out.
- 5 Q Well, the Pydraul 312 fluid contained --
- 6 A Yeah.
- 7 Q -- chlorinated components?
- 8 A This is a reference to Pydraul 312C, yeah.
- 9 Q Okay.
- 10 A I knew that 312C did not have -- You know --
- 11 Q That was my question. Were you aware, whether
12 or not you remember reading this letter, that
13 Pydraul 312C was being introduced and that it
14 didn't contain any chlorinated --
- 15 A Well, I didn't get it from this. I mean I was
16 talking to the salesmen and talking to people
17 about 312, and the only reason at that time was
18 that it was a heck of a much better lubricating
19 oil.
- 20 Q Well, Mr. Suess, Pydraul 312 itself, my
21 understanding, was introduced in the mid-1960s?
- 22 A I think --
- 23 Q Perhaps '64 --
- 24 A -- '68.
- 25 Q -- '65, somewhere in that range.

1 A I think around '68.

2 Q But that fluid contained PCBs; are you aware of
3 that?

4 A The first stuff, yeah.

5 Q And then do you remember learning of a Pydraul
6 312A product?

7 A That's probably what we tried.

8 Q Okay.

9 A That's probably what we tried.

10 Q Mr. Suess, I want to show you --

11 A Because we tried it before 1970, so I don't
12 know.

13 Q I think it was before '70. Let me show you --
14 We'll have the court reporter mark Defendants'
15 Exhibit 92.

16 (Exhibit Number 92 was marked.)

17 BY MR. RUNNING:

18 Q If you could turn to page MDC5876, which is the
19 fourth page from the end --

20 A This one?

21 Q Yes. In fact, there are -- And I'm not --
22 These -- This is based on an internal Monsanto
23 record, but I wanted to see if I can refresh
24 your recollection. There is a reference to the
25 sales books being incomplete from the period

1 from '54 to '64; do you see that, the first two
2 lines?

3 A Um-hum.

4 Q Then the entry for 1965 indicates that 1,980
5 pounds of Pydraul 312 were purchased?

6 A Um-hum.

7 Q Is that approximately the amount of fluid that
8 you would need for a test run, assuming that a
9 pound is about -- I'm sorry, that a gallon is
10 about eight pounds?

11 A Let's see. I think a machine took 300 gallons,
12 so 300 is 2,400 pounds.

13 Q So is it -- Depending on the actual size of the
14 reservoir, this looks like about the amount --

15 A Yeah. That could be one of the small machines.

16 Q All right. So the purchase of 1,980 pounds of
17 Pydraul 312 would be consistent, in your
18 experience, with the amount you would need to
19 run one machine for a trial run?

20 A Um-hum.

21 Q And then the entry for 1966 indicates that
22 26,920 pounds of Pydraul 312 were purchased for
23 Milwaukee Die?

24 A Yeah.

25 Q And would that be consistent with your

1 recollection of --

2 A It sounds to me like we decided to go with it.

3 Q So are these sales records consistent with your
4 recollection that initially you did a trial run,
5 you were the first customer --

6 A I thought it was '68, but I guess -- That's my
7 memory, you know.

8 Q Do you have any reason to believe it wasn't
9 1965?

10 A No. It's just that it sounds awful early to me,
11 that's all. And then when they found -- You
12 know, from '58 to '64 they got no sales records.
13 Well, we were buying F-9 from them then. What
14 happened?

15 Q Well, they just don't have the sales books from
16 those years. Not that you didn't make those
17 purchases, they just don't have the record.

18 A They put Milwaukee Plastics down too. Now,
19 Milwaukee Plastics, I believe, would have used
20 fire retardant -- And there is a Milwaukee
21 Plastics --

22 Q But is that affiliated with Milwaukee Die at
23 all?

24 A No.

25 Q Okay. And I just want to -- We're kind of

- 1 working backwards, but I want to make it through
2 some of these other summaries and see if they
3 help you fix the dates for the testimony you've
4 already given. Turn to page MDC5873; do you see
5 that page?
- 6 A Yeah.
- 7 Q You see, there's a reference in the sales
8 summary to a 1959 entry for the purchase of
9 5,805 pounds of Pydraul A-200?
- 10 A Yeah.
- 11 Q Would that be consistent with your recollection
12 that enough Pydraul A-200 for approximately two
13 machines was purchased for a trial run?
- 14 A That's about the right amount.
- 15 Q And in fact, we saw the 1960 letter and sales --
- 16 A Yeah.
- 17 Q -- report --
- 18 A Sounds like that would be pretty close, yeah.
- 19 Q So does that help fix in your mind the time --
- 20 A Well. A-200 was first. I mean that is the
21 first thing we tried. It failed.
- 22 Q But you had already been using F-9 before --
- 23 A Before that, yes.
- 24 Q And you were looking to switch to A-200?
- 25 A Right.

1 Q Because you wanted a cheaper price for your
2 fluid --
3 A Right.
4 Q Okay.
5 A So then we dumped that -- I don't know. Then
6 they say from '60 to '70 they got no records.
7 Q Well, this is a kind of confusing way to do it,
8 but we've already seen the reference -- They're
9 doing it by product type, is what they're doing
10 it, so that's why it's a little bit confusing.
11 We were seeing that the trial run for Pydraul
12 312 was in 1965, apparently, and the trial run
13 for A-200 was in 1959?
14 A Yeah. I guess if they're right, that's it then.
15 I --
16 Q Do you have any reason to believe these dates
17 are wrong?
18 A My memory isn't that good.
19 Q No. It sounds like it's entirely consistent
20 with your testimony. I'm not -- I'm just
21 helping to try to fix the dates here.
22 A Here they got --
23 Q So just so I'm --
24 A It's funny here that they -- They ran out of
25 years or something.

- 1 Q For the '60 to --
- 2 A Oh, I see Holland, Michigan. See, that's when
- 3 we bought some new machines.
- 4 Q Now, what page are you looking at now?
- 5 A 005868. Yeah. We bought some new machines from
- 6 B and T or Greenly (phonetic) over in Holland,
- 7 Michigan, and this material was sent to them to
- 8 put in the machines to try it.
- 9 Q I see.
- 10 A I think there was two machines there, two brand
- 11 new ones.
- 12 Q Okay. And as you can see, the sales summaries
- 13 are broken up by location and also product
- 14 types, so that's why there's separate pages.
- 15 A I see that, yeah. That tells just when we
- 16 bought those machines too. What was it? '73.
- 17 Q For example, similarly, there's an entry for
- 18 Addison, Illinois; did you buy a machine in
- 19 Addison, Illinois, and fill it up with fluid?
- 20 A No, I -- I don't remember that one.
- 21 Q All right.
- 22 A Addison, Illinois. What the hell did I -- This
- 23 probably was a rebuilt machine. If they would
- 24 have had the name of the -- you know, name of
- 25 the rebuilder on there, I'd recognize it more

1 than Addison, Illinois. But that looks like it
2 could have been a rebuilt machine by somebody in
3 Chicago -- or Illinois.

4 Q All right. Well, I just wanted to -- Focusing
5 again on Pydraul 312, at least according to this
6 page we were looking at a moment ago, the trial
7 run for Pydraul 312 would have been in 1965, and
8 you started buying the fluids for your other
9 machines --

10 A '66.

11 Q '66. And then if you shift over to the first
12 summary page, if you see '67, 55,480 pounds were
13 purchased, and then in '68 the purchase dropped
14 off to 6,500 pounds, but then they picked up in
15 '69 and '70. In 1970, 39,909 pounds were
16 purchased; do you see that?

17 A 70? Yeah.

18 Q Do you have any reason to believe that these
19 purchase summaries are inaccurate? We have
20 the --

21 A No, I don't know. I --

22 Q And if you want, we can go through the invoices
23 that are attached.

24 A You can see that it's six and a half bucks a
25 pound. That's pretty expensive.

- 1 Q Pretty expensive product?
- 2 A Yeah.
- 3 Q And referring to the sales summary in 1971, the
- 4 purchases shift from Pydraul 312 to Pydraul
- 5 312A?
- 6 A Yeah.
- 7 Q Do you see that?
- 8 A Yeah.
- 9 Q And do you remember learning what Pydraul 312A
- 10 was?
- 11 A I probably should, but I don't.
- 12 Q Okay. All right. Let me ask you specifically
- 13 do you remember being told that that was a
- 14 product that no longer contained PCBs as its
- 15 primary ingredient, but instead contained
- 16 polychlorinated terphenyls (phonetic)?
- 17 A A?
- 18 Q Yes.
- 19 A No. I --
- 20 Q Don't remember one way or the other?
- 21 A No.
- 22 Q Then in 1972 the purchases were of Pydraul 312C;
- 23 do you see that?
- 24 A Yeah.
- 25 Q And you've already testified that you learned

1 that Pydraul 312C didn't contain any PCBs,
2 right?

3 A Yeah.

4 Q Okay. Why don't you review the -- just the
5 total purchasing summaries on pages one and two
6 of Exhibit 92, and just tell me, and keeping in
7 mind that for some of the earlier years we have
8 the records for A-200 and Pydraul 312; but is
9 there anything on these sales summaries that you
10 believe to be inaccurate, based on your
11 knowledge of the plant operations?

12 A No. This is probably the one thing I don't know
13 the first thing about, how much was bought.
14 Yeah, I --

15 Q But as the plant superintendent and the plant
16 engineer, were you aware of the type of
17 hydraulic fluid that was being purchased, as
18 you've testified?

19 A Yeah, sure. Yeah, I knew --

20 Q Okay.

21 A -- the types, you know.

22 Q And these sales summaries indicate that the
23 plant purchased A-200 fluid in 1959 for a trial
24 run, purchased Pydraul 312 in 1965 for a trial
25 run, and then began purchasing Pydraul 312 every

- 1 year after --
- 2 A Yes.
- 3 Q -- 1965. They indicate that the plant switched
- 4 from Pydraul 312 to Pydraul 312A in 1971, and
- 5 then that the plant then switched from Pydraul
- 6 312A to Pydraul 312C in 1972?
- 7 A Right. When it became available, that's what we
- 8 did.
- 9 Q So is there anything --
- 10 A Well --
- 11 Q -- in your experience --
- 12 A The only thing that I don't see is where's the
- 13 F-9.
- 14 Q Unfortunately, we don't have the records for the
- 15 F-9 in the '50s, is the problem.
- 16 A Because I was wondering when that started. I
- 17 don't know.
- 18 Q That, unfortunately, we don't have?
- 19 A Well, here.
- 20 Q Maybe we do.
- 21 A 1970, see, there's 2,000 gallon tank truck came
- 22 in with Pydraul 312.
- 23 Q Right.
- 24 A So --
- 25 Q No. I think your testimony about the holding

1 tank is exactly right.

2 A We're coming in in '70, '71, okay.

3 Q Yes.

4 A Okay.

5 Q But just -- As a progression of the types of

6 products and the years that I've just referred

7 you to in the sales summaries, is that accurate,

8 to the best of your knowledge?

9 A To the best of my knowledge, yeah. I'll go

10 along with it, yeah.

11 MR. RUNNING: Okay. We have been

12 going quite a while. Maybe we should take a

13 break.

14 (Discussion off the record.)

15 (Exhibit Number 88 was marked.)

16 BY MR. SUESS:

17 Q Now, Mr. Suess, this is another one of the

18 letters I was referring to.

19 A Yeah.

20 Q We've marked as Exhibit 88 a March 15, 1972,

21 letter from Howard Borgen of Monsanto to

22 Monsanto's Pydraul customers?

23 A Yes.

24 Q On the second page of the letter is a list of

25 the --

1 Q -- were there any other hydraulic fluid wastes
2 that would go outside the plant?

3 A I don't -- No. I -- No.

4 Q You don't know of any?

5 A I don't know of any, no. When you talk about
6 hydraulic fluids going outside the plant, at
7 this time there shouldn't have been any, because
8 we had a tank under ground. But equipment that
9 was no longer in use would be stored outside,
10 and that, even if you'd empty it out, which you
11 would, you'd empty out the tank when you took it
12 outside, because -- Well, it's expensive. You
13 can use it in other machines. Well, it's
14 outside, and if it rains, the stuff washes off
15 if there's, you know, residue on the machine.

16 So -- I can't tell you, no --
17 If -- you know, what it is or how much it would
18 be, but we did store -- I wouldn't want to call
19 it obsolete, but equipment that's not being used
20 at the time, outside.

21 Q Okay.

22 A And then prior to our tank, we did store drums
23 outside.

24 Q New drums?

25 A New drums, empty.

- 1 BY MR. RUNNING:
- 2 Q You were saying you remember the name
- 3 Papageorge?
- 4 A Well, only because it's a little different.
- 5 Q Did you ever meet with Mr. Papageorge?
- 6 A No.
- 7 Q And the second page of this exhibit is an August
- 8 3rd, 1973, letter from Cummings Payton to
- 9 Monsanto's Pydraul customers?
- 10 A Yeah.
- 11 Q And the last page of the exhibit was --
- 12 indicates that this letter was sent to the
- 13 director of purchases, hydraulic fluids?
- 14 A On the back.
- 15 Q On the very back?
- 16 A Like I say, I can't say that I seen this thing.
- 17 Q At the time this letter was written, was the
- 18 company still recapturing hydraulic fluid spills
- 19 and filtering them and putting them back into
- 20 the hydraulic reservoir?
- 21 A As far as I know. I don't know of any other way
- 22 to do it.
- 23 Q So aside from the Speedy Dry material that was
- 24 used to dry off the floors --
- 25 A Right.

1 Q All right. After they had been used?

2 A After -- Yeah. They were put outside, they
3 were turned over so they wouldn't get all full
4 of water from the rain. But there again, there
5 probably could be some residue of that material
6 that -- teaspoon, tablespoon, who knows?

7 Q Tablespoon is about your estimate of what might
8 be left?

9 A I don't know. I'm just saying I don't know. A
10 guy could have emptied out a drum and left a
11 gallon in it. He shouldn't have, but hell, it
12 happens. But then again, could have -- I don't
13 know. Just -- But the drums were out there,
14 and they weren't cleaned, they weren't steam
15 cleaned, or they weren't -- you know, before
16 they were put outside.

17 Q And this would have happened before 1968 --

18 A Yeah.

19 Q -- when you went to the bulk purchases?

20 A Yeah. When we were still buying drums, and the
21 drums would be used for putting in scrap
22 casting. But sometimes you got an overflow of
23 drums, you got more drums than you know what the
24 hell to do with. So the overruns would be
25 stored outside. So when you talk about stuff

1 getting outside, that's one way I can see that
2 it could.

3 Q Now, this -- This letter includes a notice from
4 Monsanto about an incineration service for
5 hydraulic fluids?

6 A Yeah. I see that.

7 Q Were you aware of that incineration service in
8 the early 1970s?

9 A No. No, I wasn't.

10 Q Because you were recycling the hydraulic fluid,
11 was there any need for an incineration service
12 at the plant --

13 A No. At that time we didn't -- I didn't know of
14 any -- any reason to -- I don't -- It's nice
15 to know that they -- they had an incinerator,
16 though. But did it work? That's what I want to
17 know. I don't think it did.

18 Q Yes, it did. It worked.

19 A It did?

20 MR. CARUSO: Well, there's no
21 foundation for colloquy.

22 THE WITNESS: Why would you send it
23 down to Rawlings (phonetic), then?

24 MR. RUNNING: The incinerator was
25 closed before 1980 when there were other ones

1 man at the plant after Mr. Schroeder?

2 A Yeah, I would guess so, yeah. Well, no, I
3 shouldn't say that. I don't know when Henry
4 died, but Henry Schroeder would have been
5 second, and I would have been third.

6 Q And what was Henry Schroeder's position; what
7 was his title?

8 A Well, they switched titles. One day he was vice
9 president, and the next year he was president,
10 and the same thing with Fred. They flip-flopped
11 from year to year, one being vice president one
12 year, and one being the president.

13 Q Oh, did they have equal ownership in the plant?

14 A No. Fred had the majority, but -- Fred had 49
15 percent, and then there was about four other
16 people that made up the other 51.

17 Q Do you know their names?

18 A No. In fact, when Fred sold, he was 51 percent.
19 He found some guy who had 2 percent, and he then
20 became sole owner.

21 Q A valuable 2 percent to have, I'm sure.

22 A He found the guy. Nobody else knew about it,
23 and I don't know who it was and --

24 Q But I --

25 A It's something like -- It's a family, it's a

1 Schroeder family thing, like his cousin, his
2 aunt, or -- You know, it's all family. They
3 all have part of it.

4 Q How long did Mr. Bartel run the die cast
5 department?

6 A I think it started some -- He -- started
7 sometime in the '50s, and he retired -- about
8 '77, '78, someplace in there.

9 Q Who replaced him as die casting foreman?

10 A John Laxton.

11 Q John Laxton. How long had John Laxton been with
12 Milwaukee Die?

13 A I remember -- I guess I'm only guessing, but he
14 probably started someplace in the early '60s.

15 Q And then how long did -- after Mr. Bartel
16 retired, did Mr. Laxton run the die casting
17 department?

18 A '87.

19 Q So about from 1977 or 1978 until 1987?

20 A Yeah. I'm only guessing. All those things
21 should be pretty much by records at Milwaukee
22 Die Casting, exact dates.

23 Q Was Mr. Laxton a good foreman?

24 A Yeah. I would not put him as good as, you know,
25 Less, but John was -- he was good with people.

1 guarantee.

2 Q Okay.

3 A And I think the monies and so were -- Marshall

4 and -- No, not Marshall Ilsley, but the bank on

5 Wisconsin Avenue, right by the river.

6 Q Okay.

7 A I can't think of the name of it.

8 Q Okay. Was the Milwaukee Die Casting pension

9 plan, if you will, was it maintained separately

10 from that of Fisher Controls?

11 A Yes.

12 Q Yeah.

13 A It was no part of that.

14 Q Do you remember anything else about Mr. Boyd's

15 visits to the plant, other than what you've told

16 me already?

17 A No, not --

18 Q Did you ever receive any written instructions

19 from Mr. Boyd --

20 A No.

21 Q -- about how to run the plant?

22 A No.

23 Q Referring to Exhibit 12, which the court

24 reporter's already marked, which is the July 17,

25 1975 --

1 A Um-hum, yeah.

2 Q -- Wisconsin DNR letter, did you receive a copy
3 of this letter --

4 A Yeah. This one I remember.

5 Q All right. What did the plant do in response to
6 this letter?

7 A Closed up the sewer.

8 Q Okay.

9 A In other words, this addition that I was telling
10 you about previously, that little addition.

11 Q Um-hum.

12 A We had put a floor drain in there because we had
13 all intentions of using it for deburring
14 castings. And it would have been tumbling the
15 castings in a water media and -- with water
16 media to deburr them, and then that would have
17 discharged the water, you know, into the sewer.
18 But that never came about. We never put that in
19 there. And what we did, in fact, was is store
20 barrels and drums there.

21 Q Okay.

22 A And if somebody went and got -- Say, for
23 instance, they wanted to get a five-gallon can
24 of F-9 or whatever. They had go and fill it up
25 and then shut it off and walk away and put it

1 where they wanted to put it.

2 However, some of that stuff either
3 dripped out of the barrel, the nozzle wasn't
4 tight, you know, or the guy spills some when he
5 was walking along. But anyhow, it got down the
6 drain there. So this letter tells you that it
7 was 53 parts per billion, it looks like.

8 Q Yeah.

9 A Holy mackerel. Anyhow, what we did is we sealed
10 the sewer, we sealed it up so nothing would go
11 down there.

12 Q And did that resolve the problem, as far as
13 you're concerned?

14 A Well, I would imagine anything that was left in
15 there, anything that was left in there stayed
16 there. Although, you know, you had water
17 running through from down line, and I suppose
18 eventually it would stop, you know. But I
19 didn't know another way of doing it.

20 Q Who made the decision to respond to this letter
21 by closing off the floor drain?

22 A I did.

23 Q Okay.

24 MR. RUNNING: I need to take a
25 break, and I wonder --

1 back to work, and at that time I was given the
2 job -- The job of cleaning up the machines and
3 getting them down to less than 55 -- 50 parts
4 per million was taken away from Bill Bowman and
5 given to me. That's basically my only job,
6 according to John Wheeler, was to get that
7 satisfied.

8 Q And who gave that you assignment?

9 A John Wheeler.

10 Q John Wheeler? And did he give you that
11 assignment after you came back from your heart
12 attack?

13 A Yes.

14 Q So approximately April of 1980?

15 A Approximately, yeah.

16 Q Do you remember, had there been a federal
17 inspection of the plant during the time you were
18 out with the heart attack?

19 A Of the plant?

20 Q Yes.

21 A Not -- I don't know. I don't know.

22 Q Did Mr. Wheeler tell you what had prompted --

23 A I know --

24 Q -- his --

25 A I know what prompted it.

1 Q What prompted it?

2 A When I got back, we went to a meeting at -- and
3 I can't remember the organization that was
4 giving the meeting, but they did have EPA
5 people, DNR people talking about safety and
6 talking about polychlorinated biphenyls and, you
7 know, all this. And I, myself, myself, and John
8 Wheeler and Bill Bowman went to the meeting.

9 Q All right.

10 A And this was probably a -- within the first week
11 I got back from -- to go to work. And this guy
12 then explained what you have to do about PCBs,
13 and that regulations stated, I think -- I'm not
14 sure, but I think we were behind already. We
15 were supposed to be done with it in March, and
16 that was April or something. I don't -- But
17 anyhow, that got John awful nervous, because up
18 to that time I guess he didn't realize what the
19 hell was going on. And so right out in the
20 parking lot, that's -- He told Bill Bowman,
21 you're off of it, and he asked me if I'd take
22 over, straighten it out, and that was it.

23 Q Do you know whether Mr. Costello would have been
24 providing these test results over the telephone,
25 as indicated in this document?

- 1 A Well, if I would know who Costello is, but I
2 would guess -- I would guess what we're trying
3 to do here is to lower it below the three --
4 below the 50 parts per million.
- 5 Q Are these --
- 6 A And these are readings from machines.
- 7 Q Okay.
- 8 A And I don't know -- Of course, you can see that
9 some are over and some are under.
- 10 Q And what would you do, you skim them off?
- 11 A All you do is skim off the reservoir, and you
12 get PCBs out until it got down to less than 50.
- 13 Q Okay.
- 14 A We didn't find that out until later though,
15 that -- We found out the way to find the PCBs
16 was a skimming operation, and it worked fine.
17 You know, instead of having 55 gallons of junk,
18 of which 90 percent was water to throw away, you
19 only got the PCBs, you know, and just throw them
20 away.
- 21 Q Maybe we should put this one aside, and I think
22 another one of these exhibits will identify who
23 Mr. Costello was a little better.
- 24 A The next one --
- 25 Q The next one --

1 A I don't recall this, but --

2 Q All right.

3 A I don't know.

4 Q Just for the record, we have to say what it is.
5 Why don't we have the reporter mark as Exhibit
6 90 the letter from you to Mr. Craddock dated
7 June 13 of 1980.

8 (Exhibit Number 90 was marked.)

9 BY MR. RUNNING:

10 Q Referring to Exhibit 90, is this a letter that
11 you sent to Mr. Craddock on the date indicated?

12 A Well, it sure as hell -- It's got my name on it
13 and -- But I just don't remember the letter.
14 That's his letter to us, evidently, once he had
15 returned or something.

16 Q Well, it says please find enclosed a copy of a
17 letter you requested during our phone
18 conversation of June 12, 1990, regarding PCBs.

19 A Okay.

20 Q Did you pull this out of the Milwaukee Die
21 Casting's files and send it to Mr. Craddock?

22 A I must have. I don't know.

23 Q Do you remember what file you would have found
24 this in, this letter that's attached?

25 A I haven't the -- Oh, this is from '70, that

1 letter. Oh, God, I wouldn't -- I haven't the
2 slightest idea where I would have found that.

3 Q All right. Then there's a handwritten comment
4 on the top that says -- Can you read it? It
5 says something PCBs, something in file. First
6 of all, is that your handwriting?

7 A No, no. That's not my handwriting.

8 Q Okay.

9 A And I can't tell you who it is, either.

10 Q All right. Do you remember why Mr. Craddock
11 asked you to send him a copy of this letter?

12 A No, I don't. I just don't -- I don't know. I
13 just don't know. I never seen it. I just --
14 This goes way back, you know, ten years before
15 the letter, huh?

16 Q Yes, yes. Let me -- There's another letter
17 dated the same date from Mr. Craddock to you.
18 Maybe that will help. That's the next letter,
19 Exhibit 91.

20 MR. RUNNING: Why don't we ask the
21 court reporter to mark that first.

22 (Exhibit Number 91 was marked.)

23 BY MR. RUNNING:

24 Q Can you identify Exhibit 91 as a letter that
25 Mr. Craddock sent to you?

- 1 A Um-hum.
- 2 Q Also on June 13, 1980?
- 3 A Yeah. I guess when I started this cleanup
- 4 thing, I needed some help. And so Craddock was
- 5 the guy I talked to for help for ideas, what do
- 6 you do, you know. And I think the first thing,
- 7 one of the things he did right off the bat was
- 8 send me these rules to read, which I did.
- 9 Q Had Mr. Craddock been involved in Mr. Wheeler's
- 10 decision to assign you to take charge of this?
- 11 A No, I don't think so.
- 12 Q How did you get Mr. Craddock's name?
- 13 A I must have searched and called the people I
- 14 knew at Monsanto to find out who could help me
- 15 out.
- 16 Q And did Mr. Craddock, in fact, provide you with
- 17 the May 31, 1979, federal register that's
- 18 referred to here?
- 19 A He must have, yes. Yeah. Because this was
- 20 the -- This was the thing we went to the
- 21 meeting on, and we never had a copy. And
- 22 that's -- I think that's exactly why I wrote
- 23 him, if I could get a copy and find out what's
- 24 going on and what we should be doing about it.
- 25 Q Okay. And then the next exhibit should be

1 Exhibit 61. Why don't we ask the court reporter
2 to mark that.

3 (Exhibit Number 61 was marked.)

4 BY MR. RUNNING:

5 Q Mr. Suess, can you identify Exhibit 61?

6 A Yes.

7 Q What is it?

8 A It's a chart made out for control of PCBs.

9 Q Did you sometimes refer to this as a spread
10 sheet?

11 A Yeah. Whatever you want to call it, yeah. But
12 it basically gave you the machine, the barrel
13 number, and what the concentration of PCBs are
14 in that barrel taken from certain machines.

15 Q Who devised this form; who created it in the
16 first place?

17 A Me.

18 Q And who was responsible for filling it out as
19 the cleanup progressed?

20 A Well, I seen that it got filled out, but my
21 secretary typed it in.

22 Q Okay. Is the information on this report
23 accurate, to the best of your knowledge?

24 A To the best of my knowledge, it's right on the
25 stick.

1 Q -- visited McKinney (phonetic) in Sherman,
2 Texas, and also been involved in Marshalltown,
3 Iowa.

4 A Right.

5 Q Did he ever visit the Milwaukee Die Casting
6 plant?

7 A Not to my knowledge.

8 Q Did anyone from Fisher Controls supervise
9 regulatory compliance at the Milwaukee Die
10 Casting plant?

11 A No. Nobody from Fisher had anything to do with
12 this project.

13 Q Okay. This project -- And then you were
14 pointing to the PCB control form?

15 A Right. Everything that took place in trying to
16 clean up those PCBs and getting them below 50
17 parts per million, I don't recall anything from
18 Fisher. Now, we did get a little help from
19 Monsanto.

20 Q Are you referring to Mr. Craddock providing you
21 the regulations?

22 A Craddock and -- Well, I did talk to some people
23 there in Phocian Park I remember talking to, and
24 I don't remember what this was about, but I did
25 talk to more people at Monsanto than I did

1 John, here, you take care of it.

2 Q So to your knowledge, was there ever a
3 recommendation made by an insurance inspector to
4 do something to improve safety that Fisher
5 vetoed, said we don't want to spend the money?

6 A There probably was, but not -- Fisher didn't
7 veto it.

8 Q Who vetoed it?

9 A It would have been Wheeler. He's not going to
10 spend that kind of money for this, you know.

11 Q Okay.

12 A So I -- And Monsanto later on came in and --
13 Of course, I wasn't in charge of safety, you
14 know, but -- at that time. But when Monsanto,
15 they came in, I don't know if it was -- Every
16 three months or so, they made an inspection
17 also, and they were tougher than the insurance
18 company. They would find every little thing.
19 And so --

20 I don't know. All I can say is
21 they did an excellent job, but a lot of the
22 Monsanto stuff was taken, you know, from the --
23 all the noise pollution, trichloroethylene, air
24 quality, and different areas.

25 Q Were those OSHA inspections?

1 A No. That was Monsanto.

2 Q Are they on OSHA matters such as ambient air
3 levels?

4 A Oh, yeah. They would have followed the OSHA
5 recommendations, you know; and although I
6 thought we were pretty good, you know, they did
7 all right, I guess, as far as Monsanto was
8 concerned, but the safety part -- And Art --

9 Q Just -- But -- So there were quarterly
10 inspections by Monsanto --

11 A I can't tell you exactly it was quarterly, but
12 they were there enough though, three times, four
13 times a year.

14 Q So the Monsanto -- And when you say Monsanto,
15 you mean Monsanto and not Fisher?

16 A I mean Monsanto, yeah.

17 Q Okay. So there was a Monsanto --

18 A Inspection.

19 Q -- inspector who would check ambient air levels
20 for trichloral and any other constituent in the
21 factory that might hurt the workers?

22 A You know, just smoke or whatever -- It may be
23 beyond the OSHA levels.

24 Q And then the Monsanto inspector was trying to
25 strictly make sure that the OSHA regulations

1 were complied with?

2 A Right, yeah.

3 Q And he would criticize the Milwaukee Die Casting
4 management if they weren't complying with the
5 regulations?

6 A Well, we would get the same thing. We would get
7 a report. This is what I found, and this is
8 what we want corrected, and by that time Wheeler
9 didn't get that stuff anymore. Well, he got
10 copies, but he says, you take care of it, you
11 know. But then Bill Bowman was taking over, so
12 then it was given to Bill Bowman to take care
13 of.

14 Q Everything you described, Mr. Wheeler, I want to
15 be -- I'm sorry. Mr. Wheeler. Mr. Suess.

16 A He's dead.

17 Q I'm sorry. Mr. Suess, everything you've
18 described so far is a situation where either
19 Fisher or Monsanto was overseeing Milwaukee
20 Die's management to make sure that worker safety
21 was strictly adhered to; is that a fair
22 characterization?

23 A I think more Monsanto than Fisher. Fisher
24 physically didn't come up and make an
25 inspection.

1 Q Fisher just received these insurance reports?

2 A Insurance reports, and they worked from them
3 things.

4 Q But as to the Monsanto inspector who really
5 visited the plant in person --

6 A Yeah.

7 Q -- his concern was to make sure that the
8 Milwaukee Die Casting management --

9 A Yes.

10 Q -- was doing everything it could be to protect
11 the workers' health?

12 A Yeah.

13 Q Did he ever criticize the Milwaukee Die Casting
14 management for spending time on worker safety?

15 A No.

16 Q Did he ever suggest that Milwaukee Die Casting
17 management should cut back its safety budget?

18 A No. In fact, more, do more, you know.

19 Q Okay.

20 A And by this time, John Wheeler was all for
21 safety. I don't know just when it -- when he
22 turned around and went the other way, but at the
23 beginning, he was trying to save money, he was
24 trying to show a good profit margin, all that
25 other stuff, you know, and then later on he

1 mark this.

2 (Exhibit Number 79 was marked.)

3 BY MR. RUNNING:

4 Q Can you identify Exhibit 79 as a one-page set of
5 comments that you sent to Mr. Park relating to
6 his draft letter to Eric Dunham, which has been
7 marked as Exhibit 78?

8 A Where did this come from?

9 Q This was produced by --

10 A Oh, they -- They said that I called them or
11 something. I didn't send them anything. I
12 don't think I called them.

13 Q This was produced by Fisher Controls; Exhibit 79
14 was produced by Fisher Controls.

15 A Oh, is Phocian Park Fisher?

16 Q Phocian Park was an in-house lawyer from
17 Monsanto company.

18 A I thought it was.

19 Q Did you -- I guess my question about 79 is did
20 you make the comments that are indicated on this
21 document in reference to Exhibit 78?

22 A Well, I just want to read what you're saying
23 here.

24 Q Sure. Absolutely.

25 A Yeah, this is true.

1 Q Okay.

2 A What he's got isn't true, evidently.

3 Q Okay. Well, I just want to -- Without -- I
4 just want to establish, did you review Exhibit
5 78 and then make the comments that are indicated
6 on Exhibit 79 to Mr. Park or to his secretary?

7 A I must have read that and went back to him and
8 told him it's not the way it is.

9 Q Okay. Regarding -- In other words, your
10 comments, according to Exhibit 79, you told
11 Mr. Park's secretary that everything looked
12 fine, with the exception of the following
13 comments in paragraphs five and six?

14 A Five and six, where he says that beginning
15 promptly after inspection, which was way early.
16 I wasn't probably even there.

17 Q Right. For the April 21, 1980, inspection?

18 A Right. So first of all, we had to go get the
19 darn things, and first of all, we had to empty
20 them out, and we got to get the stuff tested so
21 we could put them in barrels. So it didn't
22 happen immediately.

23 Q Okay. Then --

24 A As you can see, it took until 1980 -- what was
25 it, 2?

1 to identify whether there's anything in
2 Mr. Park's letter that was inaccurate, to your
3 knowledge.

4 A Telephone conference -- conferences? Yeah.
5 I -- I don't see nothing wrong with that.

6 Q Okay. All right. That's what I wanted to know.
7 I've just got -- Actually, I want to show you
8 one other exhibit, and then I've got to find --

9 MR. RUNNING: Off the record.

10 (Discussion off the record.)

11 BY MR. RUNNING:

12 Q Mr. Suess, the court reporter's going to mark as
13 Exhibit 81 a March 23rd, 1983, letter from
14 yourself to Mr. Park.

15 (Exhibit Number 81 was marked.)

16 BY MR. RUNNING:

17 Q And for the record, Exhibit 81 consists of Bates
18 numbered pages MDC216 through 306. Is that your
19 signature on this letter?

20 A Um-hum.

21 Q And did you send the enclosed documentation to
22 Mr. Park on March 23rd of 1983?

23 A I probably did.

24 Q And are the attached documents business records
25 that were maintained by Milwaukee Die Casting

1 A I don't see no special -- No.

2 Q Okay. Could you tell us your educational
3 background, sir.

4 A Well, graduated from high school and put
5 approximately one year in college and then took
6 a five-year apprenticeship for tool and die
7 making, and that's it.

8 Q And by profession, your primary experience has
9 been in the tool and die casting area, right?

10 A Yes. In fact, I went to Marquette to become an
11 engineer, and I quit, and low and behold, I was
12 one anyhow. But I was a die cast engineer and
13 not a mechanical or anything --

14 Q Okay.

15 A -- so the only thing I knew was die casting.

16 Q On environmental matters, is it fair to say that
17 everything you've learned is what you learned on
18 the job --

19 A Yeah.

20 Q -- during your years at Milwaukee Die Casting?

21 A Yes.

22 Q You wouldn't consider yourself to be an expert
23 on environmental matters, would you?

24 A No, in no way.

25 Q Now, I understand from your testimony that by

1 1971 or 1972, Monsanto was no longer selling
2 hydraulic fluids which contained PCBs, right?

3 A That's what the facts seem to point out, yes.

4 Q And from your experience in your career, do you
5 have any memory or recollection to contradict
6 those facts?

7 A No, no.

8 Q To your knowledge, was any other manufacturer of
9 hydraulic fluids in the United States selling
10 fluids that contained PCBs after 1972?

11 A To my knowledge, I don't believe so. I really
12 don't know, though. I didn't go around asking.
13 We had what we wanted, and that's all we --

14 Q At Milwaukee Die Casting in the years you were
15 at the company, from 1972 on, are you aware of
16 any purchase of any hydraulic fluid containing
17 PCBs after 1972?

18 A '72, no. I -- No, there should be no purchase
19 of any.

20 Q From your experience at the company, and I think
21 we established it was close to 44 years, are you
22 aware of any source of PCBs coming into the
23 Milwaukee Die Casting plant on Holton Street in
24 Milwaukee, other than the hydraulic fluids
25 containing PCBs, prior to 1971 or '72?

- 1 A Well, the capacitors -- I don't know when they
2 came in, like maybe 1951, when they built the
3 building.
- 4 Q Are you aware of any capacitor containing PCBs
5 coming into the plant after 1982, when the
6 Slyman family acquired it?
- 7 A Not to my knowledge, no.
- 8 Q Are you aware of any product of any kind
9 whatsoever containing PCBs coming into the plant
10 after the Slymans bought it?
- 11 A No.
- 12 Q You've testified that you believed at the time,
13 in 1981 or '82, that the cleanup of the machines
14 which you supervised was a satisfactory cleanup
15 of those machines, right?
- 16 A Yes.
- 17 Q And I take it that's still your opinion today;
18 looking back, it was a satisfactory cleanup of
19 those machines?
- 20 A I thought it was a hell of a good job, yes.
- 21 Q Was any effort made prior to George Slyman and
22 his family's acquisition of the company to clean
23 up PCBs that could have been located in the
24 plant or on the surrounding property?
- 25 A No.

1 in the die casting business, right?

2 A Um-hum.

3 Q So sometimes it could be hot around a furnace,
4 right?

5 A Yeah.

6 Q That plant would be hotter than an office
7 building or other enclosed environments, right?

8 A Yes.

9 Q And to your knowledge, from time to time would
10 the workers in the plant open the doors even in
11 colder weather months merely because the heat in
12 the plant from the furnaces required them to
13 open the doors?

14 A Yes. I would say that the doors were open to
15 some degree all year around.

16 Q Okay.

17 A Because the system for -- The ventilation
18 system depends -- It's a gravity ventilation,
19 and it depends on air coming in, or you would
20 get no ventilation.

21 Q And you testified that there was a practice of
22 storing drums outside which contained hydraulic
23 fluids; is that correct?

24 A Yes.

25 Q Now, those were the drums after they had been

1 emptied?

2 A After they're emptied, right.

3 Q And your testimony is that there could be
4 residual amounts of the fluids in --

5 A There could have been.

6 Q -- in the drums --

7 A These drums were used to hold castings, and what
8 was done to the drums is holes were put in the
9 bottom. In other words, you cut the lid off on
10 top, completely off, turn them over, and you put
11 holes in the bottom.

12 And the reason for that is when the
13 people throw their zinc or their aluminum scrap
14 in the barrels, when they were dumped in the
15 furnace, there would be no water in there.
16 Otherwise, it blows up. So all those barrels
17 that were stored outside had holes in the
18 bottom.

19 Q And I want to make sure I understand you
20 correctly. Hydraulic fluids were stored in
21 drums with holes in the bottom?

22 A No, no.

23 MR. RUNNING: Objection.

24 THE WITNESS: No, no, no. The
25 empty drums --

1 BY MR. CARUSO:

2 Q The empty drums --

3 A -- had holes put in them on purpose so that no
4 water would collect in them.

5 Q I see. So drums which were previously full of
6 hydraulic fluids, once emptied, would have holes
7 inserted in the bottom --

8 A Right.

9 Q -- for the reasons which you have described?

10 A Right.

11 Q And it was possible on occasion for these drums
12 to contain residual amounts of hydraulic fluid
13 which leaked through the holes?

14 A It's possible.

15 Q So the drums certainly were not leak proof?

16 A No, no. Now, it wasn't only -- It wasn't only
17 hydraulic drums, it was any oil. We used --
18 Any kinds of drum we got, any 55-gallon drum we
19 got, we used it as a place to put the runners,
20 the scrap off of casting.

21 Q And I believe you also testified that from time
22 to time old or discarded machinery would be
23 placed outside in the yard?

24 A Yes.

25 Q Now, was it the practice of Milwaukee Die to

- 1 steam clean those machines before they went
2 outside?
- 3 A No.
- 4 Q So if there were residual amounts of hydraulic
5 fluids in the machines, that would be outside?
- 6 A Yeah.
- 7 Q What methods were in place to safeguard the --
8 or eliminate the possibility of leaking from
9 those machines that were placed outside?
- 10 A There was none. You got to remember, this was
11 1970, '71 --
- 12 Q After that --
- 13 A -- and prior to that.
- 14 Q And prior to that.
- 15 A And then there might be some there if you go
16 there today. I don't know.
- 17 Q If you focus on the period after Fisher acquired
18 the stock of the company in 1975 --
- 19 A Um-hum.
- 20 Q -- can you use that as a dividing line and tell
21 me whether the practice of storing old machinery
22 or discarded machinery continued after Fisher
23 acquired the stock of the company?
- 24 A In '75? It should have been over with then.
- 25 Q It should have been over with by then?

1 A Yeah. Because in '68 we built the addition, and
2 there should have been nothing outside, because
3 we had more room than we knew what to do with.

4 Q Well, after 1975, what was the practice --

5 A Well, by '75 we were filled up again.

6 Q Well, from 1975 on, after 19 -- After Fisher
7 bought the stock of the company, what was done
8 with machinery after it became old or had to be
9 discarded; where was it stored?

10 A I -- Some of it went outside. I -- At that
11 point, I'm not -- I wasn't involved in anything
12 like that. It was with Bill Bowman again, and
13 whatever they did. But I guess the practice was
14 that you take the stuff outside one day, maybe
15 the next day you needed it again, you brought it
16 back in. And there was a lot of sheet metal
17 stuff out there. And they'd use it and take it
18 in until it's in the way, take it out again.
19 But basically because there's no damn room left
20 in the plant there to store any more.

21 Q After 1975?

22 A Yeah. We were filled up by 1975.

23 Q And after 1975, what was the practice with
24 respect to the barrels or drums with the holes
25 drilled in the bottom; did that practice

1 maintenance person, right?

2 A Um-hum, right.

3 Q Over your years at the company, did you form any
4 opinion as to Mr. Worzalla; was he a good
5 employee?

6 A Yeah. He was a good employee, yeah.

7 Q What about Willy Means; do you have any opinion
8 whether he was a good employee?

9 A Average.

10 Q We looked at correspondence in your deposition
11 that as early as 1960 you had observed a buildup
12 of hydraulic fluids on the floor, correct?

13 A A spillage on the floor. I wouldn't say a build
14 up. It was not -- You could not leave any oil,
15 whether hydraulic or any oil, on the floor.
16 That was a safety hazard. That had to be picked
17 up, Speedy Dry put down, make sure it's dry so
18 nobody slips on it.

19 Q And what was the time frame involved in a Speedy
20 Dry cleanup? What I was asking, in terms of
21 time frame, is if some hydraulic fluid spills
22 because of a leak, how long would it take for
23 someone to come in with Speedy Dry and clean it
24 up?

25 A As far as the die cast foreman got ahold of his

- 1 sweeper.
- 2 Q So the die cast foreman would pick up a sweeper
- 3 and do it himself?
- 4 A No, no. Get his sweeper.
- 5 Q A person?
- 6 A A man, a person who was doing nothing else but
- 7 keeping the place clean. He was walking around
- 8 sweeping.
- 9 Q Did they try and do it on the same day?
- 10 A Oh, yeah, always. I would say within an hour.
- 11 Q Within an hour? I think you testified that if a
- 12 hydraulic line was to leak, that the fluid would
- 13 come out in a mist or a spray?
- 14 A If you had a -- If you had a crack in a pipe or
- 15 a tubing, and it's under 2,000 pounds pressure,
- 16 that's what it does, comes out as a spray.
- 17 Q And what would be the typical area that would be
- 18 covered by the spray; would it --
- 19 A It all depends if it's the front of the machine,
- 20 the back of the machine, or the side of the
- 21 machine or -- You know, wherever the pipe
- 22 broke. It could shoot it 40 feet across the
- 23 room.
- 24 Q In which situation would the spray be 40 feet;
- 25 the front, the back --

- 1 A The front and the back is both under 2,000
2 pounds pressure. It makes no difference.
- 3 Q Would the spray go in a straight line for 40
4 feet, or would it disburse over a wider area?
- 5 A Well, if you have a fan effect, it stays in the
6 same general area. It might cover a wide area
7 like 20 feet, and then it might cover only 5
8 feet. It all depends on what kind of a hole,
9 what kind of a leak you got.
- 10 Q Sure. Each one is different?
- 11 A Every one is different.
- 12 Q Now, in a situation where it covers a wide area,
13 would they perform this Speedy Dry cleaning over
14 an entire 40-foot area?
- 15 A Yep. That's what I -- should get the records on
16 that, see how many times that stuff was bought.
- 17 Q Would that cause a work shutdown in the area
18 while they were doing the Speedy Dry cleaning?
- 19 A It would cause -- Yeah, obviously, a machine
20 that did leak would be shut down, and so there
21 would be a shutdown of that machine. But
22 otherwise, there probably was no other shutdown.
- 23 Q From time to time would there be any spilling of
24 hydraulic fluids inside the plant that created a
25 puddle?

1 A Other than a leak? Are you saying other than a
2 leak?
3 Q Well, not necessarily. Would a leak sometimes
4 cause an accumulation that built up into a
5 puddle?
6 A Sure. It could be just drops coming out, it
7 doesn't spray.
8 Q And in that situation where it's just drops, is
9 it possible that the drops would continue some
10 period of time --
11 A Yes.
12 Q -- before detected?
13 A Before somebody seen it? Yeah.
14 Q Is it possible that the drops might continue for
15 more than a day that someone sees it?
16 A No. Well, it's possible, but I doubt it.
17 Q All right. But unlikely?
18 A Yeah. Because that was one -- The sweeper's
19 job, that was one of the things that he would
20 look for. And he had little pails, and when he
21 would see a leak like that, he would go and put
22 the pail under it quick, because otherwise, he's
23 going to clean it up. So he made sure he cut
24 down on his work.
25 Going back years ago, now, I can't

1 vouch what's going on today, but years ago, on a
2 Friday, the maintenance department would make
3 the rounds.

4 Q Um-hum.

5 A They'd check every machine for any leaks, they'd
6 tie a rag around the area, and that was work for
7 tomorrow.

8 Q Um-hum.

9 A And there's a bucket catching it, tomorrow we
10 fix it.

11 Q Well, if all along there was this procedure in
12 place that as soon as there was a leak or within
13 an hour or so after the leak was detected --

14 A Um-hum.

15 Q -- that the sweeper would come in with the
16 Speedy Dry and get it cleaned up, why were the
17 dikes necessary?

18 A That was after Bill Bowman, because he didn't
19 want to -- He was trying to keep it so that if
20 it's going to spill, you know, let it go for a
21 long time until it fills up. The dike was very
22 close to the machine, maybe eight inches away.
23 And so he let it fill up, and then they'd come
24 with the vacuum cleaner and suck it all up, and
25 he didn't have to use the Speedy Dry, because at

- 1 that time they were trying to get rid of the
2 Speedy Dry.
- 3 Q And Bill Bowman made the decision to install the
4 dikes --
- 5 A Yes.
- 6 Q And that was after 1975 when Fisher acquired the
7 stock --
- 8 A Yes.
- 9 Q And so under the dike plan, the fluids were
10 allowed to build up to a certain point before
11 they would be --
- 12 A Yeah.
- 13 Q -- sucked away?
- 14 A Yeah.
- 15 Q And how high would they be allowed to rise?
- 16 A I don't know. I think the dike was not more
17 than three inches, probably two, and that's
18 about as high as they could get, you know.
19 Otherwise, it's going to run over.
- 20 Q And how long would it take for fluid sitting on
21 the floor and accumulating to rise to two
22 inches?
- 23 A Gee, there again, it depends on the leak.
- 24 Q Depends on the leak?
- 25 A Yeah. It could fill up in a day, and it could

1 fill up in a week, and it could fill up in two
2 weeks.

3 Q And is it your understanding that in situations
4 where it took two weeks to fill up, that it
5 would be allowed to sit there, controlled by the
6 dike, until it was time to clean it up?

7 A Yeah. This would be possible, because that was
8 the reason that dikes were made. But now, you
9 got to remember that dikes were only on a few
10 machines. There's only like three machines that
11 had the dikes on.

12 Q Do you know which numbers they were?

13 A I know 17 was one. But beyond that, I don't
14 know. There was just a few machines that had
15 that. Maybe 15. 17 -- I'm not sure. I know
16 17 for sure.

17 Q Would looking at the drawing refresh your
18 recollection?

19 A No, because I can picture the die cast right in
20 my head, better than that drawing.

21 Q So the dikes were a way to save money so you
22 wouldn't have to buy so much Speedy -- cleaning
23 product?

24 A Yeah. One of the things they were trying to do
25 is get rid of Speedy Dry, the use of Speedy Dry.

1 anybody at Fisher to get the approval?

2 A I don't know.

3 Q You just don't know one way or the other?

4 A No. He's my boss, and he says yes or no.

5 Q Was there an occasion when you went to the
6 Monsanto plant in St. Louis, Missouri?

7 A Yes.

8 Q When was that?

9 MR. RUNNING: Objection to the
10 vague reference to the Monsanto plant.

11 MR. CARUSO: Well, Monsanto, the
12 offices. And we'll have him describe what it
13 was he did and what he saw while he was there.

14 MR. RUNNING: All right.

15 THE WITNESS: You know, I don't
16 know the date, but it was obviously sometime
17 around '77, '78, someplace in there, because
18 Fisher first owned us in '75, so -- And what I
19 went there for was to learn to, you know, take
20 air samples and noise samples.

21 BY MR. CARUSO:

22 Q Now, you gave some testimony in your deposition
23 about OSHA compliance?

24 A Yes.

25 Q That is the Occupational --

- 1 A Right --
- 2 Q -- Safety and Health Act compliance?
- 3 A That's basically why I was there, to comply with
- 4 OSHA regulations.
- 5 Q So is it fair to say that you went to Monsanto
- 6 for training on OSHA compliance?
- 7 A Well, in a long way, yeah. But basically it was
- 8 certain items; to learn how to take air samples
- 9 and how to read them or how to take noise and
- 10 how to read it and --
- 11 Q And how long were you at Monsanto?
- 12 A I think four days.
- 13 Q And who arranged for your visit to Monsanto?
- 14 A Don't know.
- 15 Q Who told --
- 16 A Don't know.
- 17 Q Well, how -- Did somebody from Monsanto --
- 18 A Well, Wheeler must have told me, you know, you
- 19 got to go, and they want you to do that, and
- 20 ta-da. So okay, so I went.
- 21 Q Now, prior to Fisher's acquisition of the common
- 22 stock, in all the years that Milwaukee Die had
- 23 been buying hydraulic fluids from Monsanto --
- 24 A Um-hum.
- 25 Q -- had Monsanto ever provided assistance to

1 Milwaukee Die in complying with health and
2 safety regulations?

3 A All the years prior to --

4 Q Yeah.

5 A -- Fisher --

6 Q Yeah.

7 A Not that I know of.

8 MR. CARUSO: I want to mark this
9 document as Exhibit 201.

10 THE WITNESS: The fact of the
11 matter is -- The fact of the matter is that
12 Monsanto purchased Fisher not too long before
13 they purchased Milwaukee Die Casting.

14 BY MR. CARUSO:

15 Q And you understood --

16 A In other words, Fisher was not a Monsanto
17 company for all that time.

18 (Exhibit Number 201 was marked.)

19 BY MR. CARUSO:

20 Q I found this document in the files of Milwaukee
21 Die Casting. It's previously been produced in
22 the lawsuit. It apparently has nothing to do
23 with the business of Milwaukee Die Casting
24 itself, and I -- and when I saw your name
25 penciled in on the top, I was just curious if

- 1 you knew why this document was in the --
- 2 A This was --
- 3 Q -- Milwaukee Die file.
- 4 A Well, it was sent to Wheeler, because that's
- 5 his -- And what he did is passed it on to me.
- 6 Q That's Earl's handwriting at the top?
- 7 A No. That's John Wheeler's handwriting.
- 8 Q I'm sorry. I misspoke. John Wheeler wrote your
- 9 name at the top?
- 10 A Right.
- 11 Q Because he wanted to you to see it?
- 12 A Yes.
- 13 Q Do you know why it came to Mr. Wheeler?
- 14 A I don't know.
- 15 Q Did you talk with anybody at Monsanto about the
- 16 subject of Monsanto criticizing the
- 17 Congressional report?
- 18 A No.
- 19 Q There's a reference in the paragraph three to a
- 20 gentleman named Monte Throdahl?
- 21 A Yeah. I don't know who that is, but it says
- 22 here he's company senior vice president.
- 23 Q It says he's vice president or senior vice
- 24 president for environmental policy?
- 25 A Yeah.

1 Q Were you aware that Monsanto had some type of
2 department of environmental policy?

3 A Well, let's see. If I read the damn thing, I
4 should have, but I -- Right now up to this
5 moment, I didn't know that. But I know they
6 were fighting, they were fighting the PC group
7 because -- PCB, because that was in the
8 newspaper. That was all over.

9 Q Monsanto was?

10 A Yeah.

11 Q And you happen to think Monsanto's's right, don'
12 you?

13 A Well, yeah. I don't think EAP knows what
14 they're doing.

15 Q You don't think the Environmental Protection
16 Agency knows what it's doing, do you?

17 A Not in PCBs.

18 Q Think the government made a big mistake when the
19 government issued regulations in this area?

20 A Even people from the federal government said
21 that.

22 Q Have you spoken to anyone from the federal
23 government that said that?

24 A Well, when this all happened, there was a guy
25 down in Florida who was a regulator, and he quit

1 because he -- He said it's bull, but you're
2 stuck with it now.

3 Q Going back to the time period before Fisher
4 acquired stock of the Milwaukee Die Casting
5 Company, did there come a time that you learned
6 that Fisher accompanied -- which is itself owned
7 by Monsanto, was going to acquire Milwaukee Die?

8 A A time prior to the --

9 Q I'm trying to identify when it was that you
10 first learned that Fisher -- that, A, Fisher was
11 going to acquire Milwaukee Die, and B, Fisher
12 was itself a subsidiary of Monsanto.

13 A If I'm guessing, it would be like six months
14 prior to the sale.

15 Q Okay.

16 A Maybe even less.

17 Q Now, prior --

18 A It came as a surprise to me, because Fred
19 Schroeder kept everything under his cap. He
20 didn't let anybody know that the plant was for
21 sale.

22 Q Okay. I guess that's my question. It was a
23 surprise to you that the plant was for sale to
24 anyone?

25 A Yes.

1 Milwaukee Die?

2 A I can't say. I don't know.

3 Q Let me see if this refreshes your recollection,
4 sir.

5 MR. CARUSO: Mark this as Exhibit
6 202, please.

7 (Exhibit Number 202 was marked.)

8 THE WITNESS: Off the record
9 (Discussion off the record.)

10 MR. CARUSO: He said that I showed
11 him this document on Wednesday. I think this is
12 one of the documents that would have been
13 responsive earlier when Mr. Running asked if he
14 had seen things which Mr. Running didn't show
15 him in today's deposition.

16 THE WITNESS: I see there was a
17 survey report of some sort, huh?

18 BY MR. CARUSO:

19 Q Yeah. Okay. Now, this letter is addressed from
20 Mr. Roy Jones (phonetic) of Fisher --

21 A Yeah.

22 Q -- in Marshalltown, Iowa, to three companies,
23 Milwaukee Die being one of the three?

24 A Yes.

25 Q And it's addressed to Fisher Controls in Texas

1 and United Systems in Dayton as well?

2 A Right.

3 Q Do you know whether United Systems in Dayton,
4 Ohio, was also a subsidiary of either Fisher or
5 Monsanto?

6 A I can't tell you. I don't know.

7 Q There's a note in hand -- in handwriting on the
8 top, left-hand corner of the letter; do you see
9 it?

10 A Yeah.

11 Q Is that a note from Mr. Wheeler to you?

12 A Yes.

13 Q Could you read it and --

14 A It says please review the attached survey and
15 fill out the -- Fill out what? The information
16 for -- And return to me? To me? I don't know.
17 With a copy.

18 Q With a copy of the Roy Jones, the author of the
19 letter?

20 A Yeah, right.

21 Q Is it fair to say that Mr. Wheeler is asking you
22 to prepare the response on behalf of Milwaukee
23 Die to comply with the request from Fisher?

24 A Yes.

25 Q Did you speak to anyone from Fisher directly

- 1 about the subject of this letter?
- 2 A This?
- 3 Q Yes.
- 4 A This letter?
- 5 Q And the survey form that's attached.
- 6 A I don't recall talking to anybody, no.
- 7 Q Going to the third page, did you see the
- 8 Monsanto waste survey form?
- 9 A Yeah.
- 10 Q Is this the Monsanto form which Fisher sent to
- 11 Milwaukee Die to be completed?
- 12 A I assume it is. I don't know what else it would
- 13 be.
- 14 Q Sure. And did you, on behalf of Milwaukee Die,
- 15 either complete the form or supervise the
- 16 completion of it by someone on your staff?
- 17 A Somebody completed it. It's just that I don't
- 18 even know what it is. It's the last one, you
- 19 said, right?
- 20 Q Well, there's three pages, or there appears to
- 21 be three pages of the form. Attached is the
- 22 third, fourth, and fifth page of the exhibit.
- 23 A Well, I can understand the second one. I can
- 24 understand --
- 25 Q The second -- There actually appears to be two

1 pages that are copied.

2 A Oh.

3 Q Bates stamp pages MB2258 and 2259 appear to be

4 identical, but then 2260 is different, right?

5 A This is -- Okay. Yeah, yeah. What they're --

6 Q I see a reference on --

7 A I can understand the second one, you know, but

8 this last one --

9 Q Why don't you --

10 A I don't know what NCB residue is, and Rawlings,

11 we weren't dealing with Rawlings.

12 Q Not at that time, anyway?

13 A No. So I don't know.

14 Q You just don't recognize --

15 A I just don't know what the whole thing means.

16 Q Do you recall, though, filling out a form at

17 Mr. Wheeler's direction to send for Fisher to

18 comply with Fisher's request?

19 A No, I don't remember.

20 Q You just don't remember one way or the other?

21 A I don't remember this form. I don't remember

22 filling it out, either.

23 Q Okay. Do you have recollection of filling out

24 other forms, aside from this one, for the

25 purpose of sending those completed forms to

1 Fisher?

2 A It's possible I just don't remember. Maybe if
3 you showed me some I could say yeah, I remember
4 that one. But this one, I don't.

5 Q Were you in charge at Milwaukee Die of keeping
6 track of environmental costs in the years 1978
7 and 1979, when Fisher owned the stock?

8 A No.

9 Q Were you ever asked by Fisher to summarize
10 Milwaukee Die's environmental costs and respond
11 to Fisher with that information --

12 A By Fisher?

13 Q Yeah.

14 A Could have. But all the information would have
15 come from accounting. I just passed it on.

16 MR. CARUSO: Could I mark this as
17 the next exhibit, please.

18 (Exhibit Number 203 was marked.)

19 THE WITNESS: I remember this.

20 BY MR. CARUSO:

21 Q Do you remember from -- When you say you
22 remember it, is that because I showed it to you
23 earlier in the week, or do you remember it from
24 the '70s?

25 A Well, you did show it to me earlier in the week,

1 and I did say then that I remembered it. But
2 this was not put together by me.

3 Q Well, do you remember --

4 A It's under my name, but it was not put
5 together --

6 Q Do you remember getting the letter from Bruce
7 Duncan, the director for environmental
8 operations for Fisher Controls Company?

9 A Yes, I did. Yes.

10 Q Now, was this a one-time event, to the best of
11 your memory, or was it some frequency that
12 Fisher would want Milwaukee to supply it's
13 environmental costs?

14 A I think this was probably the first time they
15 seen this, and they probably never seen another
16 one after that.

17 Q When you received Mr. Duncan's request for a
18 summary of environmental costs for the years
19 stated, did you ask someone or direct someone in
20 Milwaukee Die Casting to comply and gather the
21 information?

22 A I must have, because Maynard Preubich is the guy
23 who did it.

24 Q Maynard Preubich did it?

25 A Yeah. That's who's writing this form.

- 1 Q When you say writing, you're going to the last
2 two pages?
- 3 A The last -- Yeah. That's all Maynard
4 Preubich's.
- 5 Q That's all Maynard's handwriting?
- 6 A Yeah.
- 7 Q And the typed pages, who do you think is
8 responsible for preparing those typed pages?
- 9 A What does it say? What does it say? Oh, it
10 doesn't. I guess there's nobody's signature on
11 it. More than likely, this was given to
12 Maynard, Maynard gave it to the secretary, and
13 the secretary typed it, and --
- 14 Q Did you see it before it went back to Fisher?
- 15 A Probably not. But I notice that when I look at
16 it now, the things I see in there, like the
17 Shamrock guns and the Liberty air samples, yes,
18 that's all true, because I bought them.
- 19 Q What was the purpose of the Shamrock Engineering
20 spray guns?
- 21 A That was to reduce noise in the die cast.
- 22 Q What is the purpose of the metrosonic DB306
23 metrologger (phonetic) --
- 24 A That was to take sound readings. And the other
25 thing was a calibration to get air samples. We

1 bought the stuff and never used it, except the
2 sound meter I used. But I wasn't smart enough
3 to understand the rest of it. So that's why
4 Monsanto came out and did it. They also did the
5 noise, too. Even though I spent four days, I
6 told them I don't understand it, you come out
7 and do it.

8 Q Now, you gave some testimony, I won't try and
9 restate it all, but if I understood it, the
10 substance of your testimony was that while
11 Fisher was the owner of the stock of Milwaukee
12 Die Casting Company, that whatever was needed in
13 terms of capital improvements was provided?

14 A Correct.

15 Q Is that a fair summary of what you said?

16 A Let me say John Wheeler told me, he says
17 anything you want, I'll buy it.

18 Q And he was referring to Fisher?

19 A Yeah. And it's true, they did.

20 Q So it was Fisher that decided the level of
21 capital items that could be purchased?

22 MR. RUNNING: Objection. Lack of
23 foundation. Lack of personal knowledge.
24 Mischaracterizes the witness's testimony.

25 THE WITNESS: I don't know. All I

1 A Yeah.

2 Q Was there a time when Monsanto supplied
3 information about PCB labels to you or to
4 Milwaukee Die?

5 A Not that I know, but -- I suppose they did, but
6 I bought them locally.

7 MR. CARUSO: Could you mark this as
8 the next exhibit.

9 (Exhibit Number 204 was marked.)

10 MR. RUNNING: These are the same
11 labels.

12 BY MR. CARUSO:

13 Q So these labels in this Exhibit 204 are the same
14 labels which you ultimately purchased, although
15 you bought them locally?

16 A Right.

17 Q Do you recall Monsanto supplying the information
18 about these labels set forth in this exhibit?

19 A You mean this thing here?

20 MR. RUNNING: Well, objection.

21 It's a matter of public record that these are
22 required by federal regulation. If you look in
23 the federal register, you'll see exactly these
24 things.

25 THE WITNESS: Same thing. It's a

1 copy. I'm sure it is. I think that by the time
2 I got this thing, I already knew what --

3 BY MR. CARUSO:

4 Q Okay. But you do recall getting this
5 information from Monsanto?

6 A No, I don't recall getting them.

7 Q Do you remember Dr. John Craddock at Monsanto?

8 A Yes.

9 Q What type of doctor was he; was he a medical
10 doctor or a Ph.D. or do you know?

11 A Darned if I know.

12 Q Did you have conversations with him from time to
13 time?

14 A Yeah. Can't tell you what we talked about. He
15 was a nice guy.

16 (Exhibit Number 205 was marked.)

17 BY MR. CARUSO:

18 Q Have you had a chance to look at 205?

19 A Um-hum.

20 Q Is this a letter or a copy of a letter that you
21 sent to Dr. Craddock?

22 A Sure looks that way.

23 Q Do you recall it?

24 A No.

25 Q I notice that this copy of the letter is not

1 signed, but it appears to be a carbon copy --

2 A Um-hum.

3 Q -- of the type that was used in that era. Was
4 it your practice at Milwaukee Die to simply put
5 an unsigned carbon copy in the file after you or
6 your secretary would send a letter?

7 A I think so, yeah.

8 Q Do you recall the subject of the newspaper
9 article that you sent to Dr. Craddock?

10 A I don't -- But it's obvious what was happening
11 here. I was looking -- searching for somebody
12 to take this stuff and get rid of it.

13 Q And you were in consultation with Dr. Craddock
14 at Monsanto on that subject?

15 A I think so. I think he was supposed to try to
16 help me or -- I'm not sure just what he was
17 supposed to do, but I believe he was the guy
18 that finally came up with Rawlings and finally
19 made arrangements.

20 Q And when you saw an article in the newspaper
21 about a potential new development in this area,
22 you wanted to share it with Dr. Craddock?

23 A Yeah. I wanted him to be aware that maybe this
24 is a way to get rid of what we got.

25 Q Who is Chin Liu, L-I-U; do you know?

1 A Some guy from Fisher. It's -- I don't know,
2 safety or what's --

3 Q Well, did he have any responsibility in the area
4 of PCB storage?

5 A Not that I know of.

6 Q Was he in consultation with Dr. Craddock of
7 Monsanto as well?

8 MR. RUNNING: Objection. Lack of
9 foundation.

10 THE WITNESS: I don't know.

11 BY MR. CARUSO:

12 Q Did you ever speak to Mr. Liu about PCB storage?

13 A I spoke to Liu, but I don't know what about.

14 Q How often did you speak to him?

15 A Maybe twice, at the most.

16 Q In the general time frame of the cleanup which
17 began in 1980?

18 A Yeah. I'm pretty sure it was about that time.

19 Q About topics relating to the cleanup?

20 A I don't know. I don't know why I talked to him.
21 Evidently, I think that's -- I think while this
22 was all going on, everybody was trying to help,
23 so everybody was calling and saying we'll help,
24 but then when it came around to help, they
25 didn't help.

1 want to come back to find out who.

2 Q How often were -- How often was Milwaukee Die
3 asked to complete a survey or a report to
4 Monsanto on OSHA matters or safety matters?

5 A I can't recall any form to fill out. These
6 people from Monsanto came to us. They called,
7 they'd come up, and they'd do their job, and
8 they filled out all the forms. They did
9 everything.

10 Q They collected the information themselves?

11 A Yeah.

12 MR. CARUSO: Okay. Mark this as
13 the next exhibit.

14 (Exhibit Number 208 was marked.)

15 BY MR. CARUSO:

16 Q Do you recognize Number 208, sir? That was
17 found in the Milwaukee Die files.

18 A No, I don't.

19 Q So you don't know how it came -- how this
20 communication between Monsanto and Fisher came
21 to the Milwaukee Die file?

22 A No.

23 Q Okay. Do you remember a gentleman named Bob
24 Peck (phonetic)?

25 A Peck?

- 1 Q Yes.
- 2 A No.
- 3 Q Do you remember a gentleman named Lou Fernandez
- 4 (phonetic)?
- 5 A That's vaguely familiar.
- 6 Q How about John Hanley (phonetic)?
- 7 A Hanley, yes. That's Monsanto, Hanley, John.
- 8 Q And what was his job at Monsanto?
- 9 A I think he was president or chairman of the
- 10 board or whatever.
- 11 MR. CARUSO: Could you mark this as
- 12 the next document, please.
- 13 (Exhibit Number 209 was marked.)
- 14 BY MR. CARUSO:
- 15 Q Mr. Suess, this a note in your handwriting?
- 16 A Sure is.
- 17 Q With your signature or your first name, Earl, at
- 18 the end?
- 19 A Right.
- 20 Q Is "John" John Craddock, the person that it's
- 21 addressed to?
- 22 A John Wheeler.
- 23 Q John Wheeler, excuse me. What was the purpose
- 24 of this note?
- 25 A I think most of this was to try to get rid of

1 what were -- the stuff we had, get somebody to
2 say we know what to do with it.

3 Q So you're -- At this point in the cleanup
4 process, you're searching for the means of
5 getting rid of the barrels?

6 A Right. Now, we weren't complete, but we had to
7 start -- find out. And what was happening here
8 -- during all this time, there wasn't anybody that
9 I called who said they would do it. It was just
10 like -- It was impossible to get them taken
11 care of.

12 Q And this is August of 1980 --

13 A Um-hum.

14 Q -- according to the date of the note?

15 A Right.

16 Q And because it says PCB up there, that's what
17 it's --

18 A Got to be.

19 Q Your use of PCB as the title or caption of a
20 note in this time period means that the document
21 relates to the cleanup project that was under
22 way?

23 A Yes, right.

24 Q Because you were calling it the PCB project or
25 something like that?

1 A Yes.

2 Q I see. Did you then call Monte Throdahl, as
3 suggested by the note, or did Mr. Wheeler call?

4 A I think that's why I gave it to Wheeler, because
5 he was closer to Monsanto than I was.

6 Q Okay.

7 A And he was going to talk to one of three people
8 which report to John Hanley. He was getting up
9 pretty high.

10 Q Now, the last sentence of your note to
11 Mr. Wheeler says that this should be handled
12 through Fisher; do you see that?

13 A Yes.

14 Q Meaning that the coordination of the disposal of
15 the barrel should have been handled through
16 Fisher?

17 MR. RUNNING: Objection.

18 Mischaracterizes the testimony --

19 THE WITNESS: I don't know the
20 reason for saying that.

21 BY MR. CARUSO:

22 Q You should be kept informed?

23 A I don't know what this meant.

24 Q You can't add anything to the language of the
25 note, as to what you meant?

1 A No. Because first of all, I don't even remember
2 writing it. I was probably told by Bob Peck
3 that it should be handled through Fisher,
4 because maybe Bob Peck is from Fisher. I don't
5 know.

6 (Exhibit Number 210 was marked.)

7 BY MR. CARUSO:

8 Q I'll let you look at the original of Exhibit 210
9 and ask if you can identify it.

10 A Can I identify it? You mean -- Can I see it?

11 Q Did you see that letter?

12 A Yeah. I must have wrote it.

13 Q And do you recall the letter?

14 A That refers back to this -- this one right here.

15 Q It's part of your ongoing dialogue with
16 Monsanto?

17 A That's answering this thing right here.

18 Q As part of the safety and -- Oh, you're
19 referring to the --

20 A Yeah. See, he's talking about chocks, trailer
21 chocks, and he's talking about trailer chocks,
22 and so this is going back answering this one.

23 Q You're referring to the safety and property
24 protection survey recommendations for Milwaukee
25 Die Casting of July 14, 1980 --

1 you give him a note or some information to get
2 him up to speed as to what was being done in the
3 cleanup process?

4 A I don't recall doing it, no. Very well could
5 have. I don't remember.

6 MR. CARUSO: Mark this as the next
7 one.

8 (Exhibit Number 213 was marked.)

9 BY MR. CARUSO:

10 Q Is this a -- at least the top half, above the
11 word "early" in the bottom third, is the top
12 half in your handwriting?

13 A That's all my handwriting.

14 Q From PCBs down?

15 A Yeah.

16 Q And then the bottom portion of the note is Art
17 Rogers writing back to you; is that correct?

18 A Yes.

19 Q So the top half is you writing to Art Rogers; is
20 that correct?

21 A Yeah.

22 Q And again, your -- You --

23 A Problem is, see, we haven't got a date. But I
24 believe that it is one of those things where Art
25 called or came when he was in St. Louis and

1 talking about the sales. These are questions
2 that came up. And so let's say I was in a -- I
3 was in a way bringing Art up to date, but Art
4 was asking questions that somebody asked him at
5 Monsanto. And I think this is the negotiations
6 of the sale.

7 Q You're referring to the sale to the Slyman
8 family?

9 A Yes.

10 Q The second paragraph of your note to Art Rogers,
11 can you read that, please.

12 A Um-hum. There's a strong possibility that the
13 grounds around the die cast area could be
14 contaminated with PCBs, because hydraulic fluid
15 could have been disposed of by dumping on the
16 grounds or around the die cast department.

17 Q Did Art Rogers ever respond to you about that
18 statement?

19 A This is what his response was at the bottom. I
20 do need the what-if costs for drawing, sampling,
21 and refilling.

22 Q Now, the drawing, sampling, and refilling refers
23 to the machines themselves, right?

24 A Right. And also when was the lot paved, that's
25 what was asked on one of these others things

1 before, that I put down repaved in 1968.

2 Q Right. Earlier today we looked at the memo
3 where you wrote down --

4 A That comes from this.

5 Q Okay.

6 A All that stuff on that page came from this, and
7 this was during the negotiations at St. Louis.

8 Q But there was not a response, as far as I could
9 see, to your statement that there was a strong
10 possibility that the grounds around the die cast
11 area could have been contaminated with PCBs for
12 the reason you state.

13 A True. But it must have been questioned. I was
14 questioned about that.

15 Q And who asked the question?

16 A Don't know. But it must have been -- Must have
17 been Art.

18 Q And your answer is there's a strong possibility?

19 A Yeah.

20 Q And did the subject go any further after you
21 said that?

22 A No.

23 Q You testified during Mr. Running's examination
24 about a series of visits to the Milwaukee Die
25 Casting plant by George Slyman, his brother

1 Dave, and three or four people that worked for
2 the Slymans, right?

3 A Um-hum.

4 Q To Mr. George Slyman, to Mr. Dave Slyman or any
5 of the individuals that worked for the Slymans,
6 did you tell them there was a strong possibility
7 that the grounds around the die cast area were
8 or could be contaminated with PCBs?

9 A I don't know. I could have and I couldn't have.
10 I just don't know.

11 Q You just don't know?

12 A Just a lot of words were said, and whatever --
13 what came out, I don't know.

14 Q You just don't know?

15 A No.

16 Q Okay.

17 A In fact, I don't know at this time if there was
18 any. I'm just saying there was a possibility.

19 Q You're just saying it's possible?

20 A Yeah.

21 Q For the reason that you --

22 A Because there was a question, you know.

23 Q There was a question --

24 A I was questioned whether it was possible. Yeah,
25 it's possible.

- 1 Q As far as you know, was anything done to
2 determine one way or the other whether there was
3 PCB contamination in the ground around the die
4 casting machines?
- 5 A Around the die cast machines or outside?
- 6 Q Well, I read this memo as referring to the
7 grounds around the die cast area --
- 8 A Okay.
- 9 Q Is that -- Are you referring --
- 10 A I'm talking outside the building.
- 11 Q You're talking about outside?
- 12 A Outside the building.
- 13 Q You're --
- 14 A The grounds outside the building.
- 15 Q I misinterpreted. I thought you were referring
16 to the narrow areas of the floor around the
17 machines.
- 18 A No. The die cast area, the whole shooting area.
- 19 Q You're talking about the outside area near the
20 die casting department which you've marked on
21 the map?
- 22 A Yeah.
- 23 Q I think Mr. Running gave you the date of the
24 sale from Fisher to Slyman, that was February
25 23, 1982. Prior to that sale, was there any

1 Q Did Monsanto have any effect, that you're aware
2 of, on Rawlings, on Rawlings' willingness to
3 speed the job up and get the job done quickly?

4 A Yeah. I would think they had some leverage.

5 Q How did that happen or come about?

6 A Because I think that they put them in business,
7 Monsanto, in the long run. I don't really know
8 for sure, but that's the stories I heard, that
9 they needed a place to dispose of, and they put
10 Rawlings in business, and Rawlings got all their
11 business with all those plants that had to get
12 rid of stuff, I don't know, two dozen plants or
13 whatever. And Rawlings -- That's how they made
14 a lot of money, so they could dictate to
15 Rawlings what they want done and when.

16 Q You testified that there may have been some
17 occasions where John Wheeler exercised a veto
18 over projects?

19 A This was exercised. He was not a safety man.
20 You know, it's hard to say, but doing safety
21 projects cost money that he didn't see the
22 return from, and so he was reluctant to spend
23 money. Although, you know, Fisher, if you would
24 have went to Fisher, they said yeah, go -- You
25 know, but he didn't. This was his own decision,

1 to --

2 Q Can you give me an example of a project that he
3 cancelled or vetoed?

4 A Well, there was guards for the presses, which
5 were expensive, but he didn't think we needed
6 them at this time. And there was a lot of
7 things like that, like die casting machines, it
8 was part of the OSHA to put guards on the
9 machines. And at that time he passed on all
10 this stuff, you know, anything you spent any
11 money on in safety -- in the safety business.

12 Q And did there come a time when Mr. Wheeler's
13 decision was reversed --

14 A Yes.

15 Q -- and those items were adopted or implemented?

16 A Yes.

17 Q And that's because Fisher or Monsanto
18 intervened?

19 A Fisher did. Dennis Blanchard. He's -- Dennis
20 Blanchard is the guy that got one of these
21 reports that you had here, got this stuff, only
22 it was from the insurance company. And in the
23 margin here he wrote, get your ass in gear and
24 don't screw around with this any longer, this is
25 long enough, what the hell are you doing? And

- 1 it was very nasty.
- 2 Q What was the subject of that --
- 3 A It was a safety report from the insurance
- 4 company which went -- A copy went to us and one
- 5 went to Fisher.
- 6 Q Could you give me an example of a specific
- 7 situation where Mr. Wheeler's prior decision not
- 8 to spend the money was reversed by Fisher, and
- 9 the money was spent and the safety was improved?
- 10 A Well, after he got that letter from Dennis
- 11 Blanchard, he took the thing and he gave it to
- 12 me, and he said I want no more part of it. You
- 13 do what you have to do, and I don't want to see
- 14 the stuff anywhere.
- 15 Q Could you state for the court reporter what
- 16 exhibit you were looking at?
- 17 A This isn't one. This was from the service
- 18 company, but it looked like this.
- 19 Q Could you give me an example of a specific
- 20 safety habit, whether it was a guard or anything
- 21 else, that Fisher overruled Mr. Wheeler and
- 22 directed --
- 23 A Fisher never overruled. I mean they just told
- 24 him what to do. He was the guy that said no.
- 25 And for a long time, he just kept trying not to

1 spend too much money on this stuff, and then
2 that one day Dennis Blanchard caught up with
3 him, and that was the end of that, and he says,
4 I will no longer --

5 Q. Right --

6 A -- I don't want no part of this no more. You
7 take care of it. And at that time I said to
8 him, if I'm taking care of it, I'm going to have
9 no limits. He said, whatever it takes, do it.

10 Q And then did he advise Fisher or Mr. Blanchard
11 that you were spending the money in these areas?

12 A I don't know what John did. John probably wrote
13 him back and told him this was going to be taken
14 care of now, you know. I don't know exactly
15 what John said to him.

16 (A brief recess was taken.)

17 BY MR. CARUSO:

18 Q You saw some documents in the first part of your
19 deposition with Mr. Running concerning the 1975
20 complaint from the Wisconsin Regulators about
21 the sewer; do you remember that?

22 A Yes, yes.

23 Q And your testimony is that the problem was
24 solved by sealing the sewer, right?

25 A Right. That's what we did.

- 1 Q Did you consider whether there were PCBs down
2 the sewer line?
- 3 A Oh, there were, because they said so.
- 4 Q And --
- 5 A. But they also said that after we sealed it, it
6 was less.
- 7 Q You're not aware of any efforts to remove the
8 PCBs from the sewer line, right?
- 9 A No. Didn't know how.
- 10 Q And you're not the only one at Milwaukee Die
11 that knew about the PCBs and the sewer line,
12 right?
- 13 A Right. Maintenance guys know that too.
- 14 Q Did you ever discuss that with any of your
15 contacts at Fisher or Monsanto?
- 16 A I don't think so. I don't know. I don't think
17 so. I don't think it was a subject that we
18 would know who to talk to.
- 19 Q In anticipation of the Slyman sale in 1982, did
20 anyone from Fisher ask you about the sewer line
21 and what was done and things to that effect?
- 22 A I had no contact, other than with Art Rogers.
23 That was the guy.
- 24 Q I'm just going to give you a couple of names,
25 just to make sure you didn't have any contact,

- 1 A I had very little contact with him.
- 2 Q Very little?
- 3 A He didn't like me, and I didn't like him, so --
- 4 Q Now, Larry Solly was a -- Do you know whether
- 5 he was a Fisher employee?
- 6 A Yes, he was.
- 7 Q Did he also become the president of Milwaukee
- 8 Die at some point?
- 9 A You know, he could have. I remember this guy.
- 10 I think he was down in Texas after while.
- 11 Q Do you know if he became a director of Milwaukee
- 12 Die?
- 13 A I don't know. I don't know. I -- If it's the
- 14 guy I'm thinking of, he was down in Texas, and
- 15 we went out for supper one night.
- 16 Q What was the occasion that brought you to Texas?
- 17 A Or -- Selling jobs.
- 18 Q Okay. Do you know how it was -- how it came to
- 19 be that Mr. Solly is the person who signed the
- 20 Rawlings Waste Disposal agreement that you've
- 21 looked at today --
- 22 A I don't know.
- 23 Q -- on behalf of Milwaukee --
- 24 A I don't know. I see that too, and I thought --
- 25 well, yeah, he could have. Maybe by that time

1 Dennis was no longer there. Dennis could have
2 left then too.

3 Q When Fisher bought the stock of the company back
4 in 1975, do you recall there being any type of
5 announcement in the company, any meeting or
6 anything like that where all the employees of
7 the company were made aware of the sale?

8 A I vaguely -- No, I shouldn't say -- I don't
9 know. I don't think so. There might have been
10 notice, but I don't remember.

11 Q You testified that as the years went on, the
12 machines got bigger and bigger?

13 A Yes.

14 Q Generally speaking, did the larger machines
15 require more hydraulic fluid than the prior
16 machines?

17 A Yes.

18 Q So greater quantities of hydraulic fluids were
19 used in the later years than earlier?

20 A Right, true, very true.

21 MR. CARUSO: I have one last
22 document.

23 (Exhibit Number 214 was marked.)

24 BY MR. CARUSO:

25 Q Showing you Number 214, do you recognize it?

1 A Well, I was amazed, that's all I know. Can't
2 believe it. Oh, the environment assessment.
3 That must have been those three pieces of paper
4 you had.

5 Q Um-hum. So Mr. Duncan did come to Milwaukee Die
6 in 1978 to discuss the environmental assessment?

7 A I don't know if he came there for that.

8 Q Well, he came there?

9 A Yeah, he came there.

10 Q And following his trip to Milwaukee Die, he
11 wrote you in connection with the environmental
12 assessment?

13 A Those three pieces of paper or two pieces of
14 paper, whatever the -- Oh, here. Into a final
15 package. See, that thing was -- This is
16 November of '78, and I think -- What was the
17 date of that other thing? I think there's a big
18 time lapse there. Here it is. '77.

19 MR. RUNNING: That's not an
20 environmental assessment.

21 BY MR. CARUSO:

22 Q No. That's called a Monsanto survey. Well, let
23 me show you this, and I apologize, I haven't
24 copied this whole book. But the letter that I
25 just showed you is the first document from this

1 book, November 10, '78. The entire book has
2 previously been Bates stamped and produced. It
3 came from the Milwaukee Die file.

4 A This is probably my book -- I think that's my
5 book.

6 Q Show it to counsel, and then we'll mark it and
7 get a copy made afterwards.

8 A You know what he's talking about, so -- When
9 you talk about environmental, you think of PCBs.
10 When I talk about environmental, I talk about
11 air quality and noise.

12 Q I'm showing you the book which we found in the
13 Milwaukee Die files. This document, beginning
14 at Bates stamp MD001325, it's on Monsanto
15 stationery, it's dated in October of 1977, and
16 it appears to be a discussion or reference to a
17 number of environmental cleanups going on at --
18 around the country --

19 A Their plants, yeah.

20 Q -- everywhere except Milwaukee Die?

21 A Yeah. They --

22 MR. RUNNING: Objection to the
23 characterization of the document. Also, there's
24 no question pending.

25 BY MR. CARUSO:

1 Q My question is do you know why this Monsanto
2 document concerning a dozen or so cleanups found
3 its way into the Milwaukee Die Casting file?

4 MR. RUNNING: Objection. Lack of
5 foundation.

6 THE WITNESS: Well, you have
7 Milwaukee Die Casting right here.

8 BY MR. CARUSO:

9 Q Well, that's a separate page.

10 A I know.

11 Q The one he's referring to was this --

12 A What I remember, this book, they sent it to us,
13 they made it up, they sent it to us.

14 Q Monsanto sent you this book?

15 A No. I don't know if it was Monsanto or Fisher.
16 One of the two sent it to us.

17 Q You received this book from either Fisher or
18 Monsanto?

19 A I believe it was Fisher.

20 Q Can you identify the person at Fisher that you
21 believe sent it to you?

22 A I think --

23 Q Bruce Duncan?

24 A Bruce Duncan is the guy that did it.

25 Q Okay.

1 A This is probably his environmental assessment
2 package.

3 Q Okay. And did it include this Monsanto document
4 starting at MD001325?

5 A I think just what you see here is what they sent
6 us. We didn't add anything, we didn't subtract
7 anything. This is it.

8 Q Did you keep this document at Milwaukee Die
9 Casting in the ordinary course of affairs?

10 A This thing was on my desk, I think. Not on my
11 desk, but another desk. It was --

12 Q In your office?

13 A Yeah.

14 MR. RUNNING: We should mark it,
15 since we're referring to it so much.

16 MR. CARUSO: Please mark -- Why
17 don't we just put a mark on the book, and then
18 I'll have the whole thing copied.

19 (Exhibit Number 215 was marked.)

20 MR. CARUSO: I have no further
21 questions after that is marked.

22 MR. RUNNING: I have a few
23 questions.

24 THE WITNESS: Don't you start, now.

25 MR. RUNNING: I just have to follow

1 looked at the contract, and this was signed by
2 the president --

3 A Right.

4 Q -- of Milwaukee Die Casting Company?

5 A Oh, no. It was signed by --

6 Q Mr. Solly?

7 A Oh, Solly, yeah.

8 Q And he signed it as the president and director
9 of Milwaukee Die Casting Company?

10 A But he was never here. He was never in
11 Milwaukee.

12 Q But he was the president of Milwaukee Die
13 Casting Company?

14 A Evidently. I didn't know that, though.

15 Q Wasn't signed by Monsanto, was it?

16 A I don't remember what it said.

17 MR. CARUSO: I'll stipulate to who
18 it's signed by. It's signed by Mr. Solly.

19 THE WITNESS: When I seen Solly on
20 there, I was amazed, but --

21 BY MR. RUNNING:

22 Q I just want to be clear, though. The only
23 involvement that Monsanto had in the operations
24 of the plant from an environmental standpoint
25 was they took air samples to make sure that

- 1 ambient air samples in the plant were in
2 compliance with OSHA standards?
- 3 A Yes, and noise.
- 4 Q And they checked the noise levels to be sure
5 they complied with OSHA standards?
- 6 A For environmental, but they also did safety
7 walkthroughs.
- 8 Q They also did safety walkthroughs?
- 9 A Yeah.
- 10 Q Before Milwaukee Die Casting Company, before
11 their stock was acquired by Fisher, did
12 Milwaukee Die Casting Company hire outside
13 consultants to do that work?
- 14 A The insurance company did.
- 15 Q Insurance company did that work?
- 16 A Yeah.
- 17 Q Did Milwaukee Die Casting ever have qualified
18 personnel who were able to do the air samples
19 that you described?
- 20 A No.
- 21 Q Did Milwaukee Die Casting Company ever have the
22 qualified personnel to do the noise sampling
23 that you described?
- 24 A No.
- 25 Q So somebody other than an employee of the

WOREZALIA DEP.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MILWAUKEE DIE CASTING COMPANY,
SLYMAN INDUSTRIES, INC., and
THERESA A. SLYMAN,

Plaintiffs,

vs.

Case No. 93-C-0325

FISHER CONTROLS INTERNATIONAL,
INC.,

Defendant.

DEPOSITION of KENNETH G.

WORZALLA, was taken at the instance of the
Defendant, under and pursuant to the
provisions of Section 804.05 of the Wisconsin
Statutes, and the acts amendatory thereof and
supplementary thereto, before me KATHY A.
HALMA, Registered Professional Reporter and
Notary Public in and for the State of
Wisconsin, at the law offices of Godfrey &
Kahn, 780 North Water Street, Milwaukee,
Wisconsin, on the 9th day of January, 1995,
commencing at 9:30 o'clock in the forenoon.

1 Q Okay. I wonder if you can tell me, Mr.
2 Worzalla, a little bit about how long you have
3 been employed at Milwaukee Die Casting and what
4 kind of jobs you have done there.

5 A I started on June 11, 1973 as a trim operator
6 and I worked during the summer, that summer, as
7 a trim operator. When I went back to high
8 school my senior year, I couldn't continue the
9 rigors of being a piece work operator, so I had
10 asked Mr. Wheeler if I could be a part-time
11 employee. He stated to me there was nothing in
12 the contract that said they couldn't have a
13 part-time employee, and so I became their first
14 part-time employee as a material
15 handler/sweeper on second shift. That lasted
16 until I graduated in June of 1974 from high
17 school at which time I told them I would no
18 longer work there. I felt that I had more
19 talents and ability, so they asked me if I
20 would like to try maintenance.

21 I started that in June of '74, made
22 it until March of '75. We had an economic
23 recession. I was laid off from March of '75
24 until October of '76 and I was recalled in '76
25 back to maintenance and have been there ever

1 since.

2 Q Okay. Now I wonder if you could tell me what
3 that first job consisted of?

4 A Trim operator consisted of coming in, being
5 assigned by a foreman, who at that time was
6 Hank Aasen, and he would assign you to a job
7 and you would manually remove parts from a
8 truck and put them onto said machine. Whether
9 it was drilling, tapping, milling, boring, you
10 would do that for the length of your shift or
11 until the machine broke down or it was
12 completed, the order, and then they would move
13 you to another piece of equipment. You just
14 functioned as a production worker.

15 Q And a material handler?

16 A Sweeper was the -- the bulk of that work was to
17 make sure that trucks were always by the trim
18 operators so that they didn't have to go and
19 look for the trucks of materials so that they
20 could continue -- The trim operators are on
21 piece work. So you would go and make sure that
22 their finished trucks would be removed and
23 their undone trucks would be ready to stay in
24 production. You did sweeping and cleanup
25 around the machines, put stuff in wheelbarrows,

1 situation?

2 A A cubicle.

3 Q Okay. Now, Mr. Worzalla, do you have any
4 awareness or knowledge of anyone at MDCC
5 dumping hydraulic fluids or pouring hydraulic
6 fluids anywhere around the plant?

7 A Yes. In the earlier years that I worked there
8 I know that I dumped two or three outside in
9 the parking lot on the gravel, and that was
10 under the direct supervision of my supervisor
11 who had told me take them out, dump them out on
12 the parking lot on the gravel, which I did, and
13 I recall other individuals, names and faces I
14 don't have, but people used to take them out on
15 the fork truck and dump it on the gravel. This
16 wasn't an everyday occurrence, it was just on
17 an occasional basis that it would happen, and
18 occasionally you would see employees opening up
19 the spigot out between the back door between
20 the maintenance and die cast part of the
21 building, which is the southeast corner and the
22 northeast corner of the building.

23 Out in that back area we used to
24 store the empty drums, which always have
25 residual oil in them, half-a-gallon, quarter,

1 two gallons, three gallons, just depends how
2 fast or who emptied it out, and in the spring
3 we would go outside and cut the tops off of
4 them, tip them over to leave them drain and
5 pound holes so we could dry them inside the
6 building and put metal in it to reuse it. We
7 had to make sure the employee knew that if
8 water gets below the metal level, it would
9 explode.

10 Q I'm going to go back a step or two and ask you
11 about each of the things you told me about.
12 You indicated on two occasions you in the early
13 years --

14 A I can recall being told twice to take out oil
15 and dump it outside.

16 Q Okay. Now can you tell me when that was,
17 approximately?

18 A Oh, that was probably '76, '77, '78, in that
19 era.

20 Q Okay. When you were a full-time employee or
21 part-time employee?

22 A Full-time employee.

23 Q Who was the person who told you to do that?

24 A My direct supervisor at that time was Ed
25 Wildes.

1 Q Okay. Now what is it that you say you dumped
2 or do you know?

3 A I don't know. I'm sure that there was a
4 percentage of -- it came out of die cast.
5 There would have been die spray in there and
6 there would have been oil sprays that come from
7 die casting. It could have been hydraulic
8 fluid. It was whatever was on the floor. It
9 was heavier and thicker than normal, so it
10 ended up dumped outside instead of down the
11 sewer.

12 Q Okay. Are you suggesting that what you dumped
13 was stuff that was washed off the floor? Is
14 that what you're saying?

15 A Vacuumed off the floor. We used a vacuum
16 cleaner back then as we do today. We use a
17 55-gallon container with a Milwaukee head-on it
18 and it's got a float switch and you suck up
19 approximately 48 gallons of oil or water or
20 whatever and then the float switch shuts it off
21 and you take and dump those vacuum cleaners
22 out. There is a variety of oils and materials
23 that get sucked up; oil absorbent, the Hi-Dri,
24 greases, oils, water. Whatever is on the
25 floor, they go a good job picking it up.

1 time.

2 Q Okay. Are you able to give any kind of
3 estimate at all as to kind of what the glob you
4 actually poured consisted of? How much
5 hydraulic fluid? How much water? How much
6 anything else?

7 A I could give you a fictitious number, but I
8 couldn't give you an honest -- You know, I
9 would say the bulk being maybe 60 percent
10 water, 30 percent oil, hydraulic fluid and 10
11 percent being the weigh lubricant which is
12 Pennzoil weigh lube 220, and that's just a 90
13 weight gear and transmission oil to lubricate
14 the jibs and the weighs and the linkage.

15 Q That is, as you said, basically a guesstimate?

16 A It's a guesstimate. If there was an oil leak
17 and it was vacuumed up from an oil leak, it
18 could have been 90 percent hydraulic fluid.

19 Q Now this occurrence that you said occurred
20 involving two dumpings, how much did you dump?

21 A The vacuum cleaners were filled. They shut off
22 at that point. That's 45 to 50 gallons of
23 liquid each time that they were dumped.

24 Q Okay. And that's on two occasions that you
25 personally did that?

1 Milwaukee Die Casting had a permit from the
2 City of Milwaukee allowing us to dump oils down
3 the sewer and that was the end of that
4 pursuit.

5 But the employees were concerned so
6 we had OSHA come in. They contacted OSHA and
7 they found that the smoke level was not harmful
8 in the building, the noise level was and it
9 always has been marked that you had to wear
10 hearing protection, so they continued to say
11 "wear your hearing protection," and I guess
12 somebody materialized a permit saying they had
13 permission to dump it and that ended the
14 questions that were being asked. We felt
15 everything was environmentally safe, if OSHA
16 said it was okay.

17 Q Okay. I should come back to this, but let me
18 go back. Have we pretty much exhausted your
19 recollection about your -- the personal two
20 times?

21 A My personal dumping? I recall seeing oils
22 dumped outside. How frequent I could not tell
23 you. That's not something I dwelled on. We
24 just noticed that sometimes you'd come in and
25 on second shift somebody had blanketed the

1 gravel and, you know, they just dump out oil on
2 the gravel and I remember finding a dead wood
3 duck behind the Maintenance Department and I
4 was speculating whether or not it broke its
5 neck from the wire or it was the oil that it
6 drank, because there was a pool of oil, or if
7 it flew into the building. That was
8 speculation. I have no idea what happened to
9 it.

10 Q Okay. Correct me if I'm wrong. I think you
11 indicated you personally dumped some oil under
12 the direction of Mr. Ed Wildes back in I think
13 you indicated maybe the late or mid to
14 late-'70's?

15 A After '76.

16 Q No other occasion on which you personally
17 dumped anything?

18 A None. I remember when Bill Baumann took over
19 he came in and he gave us a directive not to
20 dump anymore oils. Bill Baumann was the plant
21 superintendent when Dick Kirth was there. Dick
22 Kirth was my supervisor. He was not the -- He
23 was the maintenance foreman. Bill Baumann was
24 the plant superintendent, but at that time I
25 was answering to Mr. Ed Wildes at the very

1 start of Bill Baumann and then Dick Kirth while
2 Bill Baumann was still there. All the time
3 Bill was there he was our plant superintendent
4 and that would have been during the Ed Wildes
5 and Dick Kirth era.

6 Q Mr. Baumann gave an order not to do anymore
7 dumping?

8 A I'm pretty sure the directive came from either
9 Bill or it came from upstairs, because they
10 purchased some holding tanks and put them
11 outside and they were put -- which would be our
12 north central part of the building. There were
13 two large steel tanks put out there and Leonard
14 Lanke and myself built a plywood frame and
15 insulated it with Styrofoam and we put steel
16 air lines inside of them so on weekends and
17 during the winter we could circulate them with
18 air so they wouldn't freeze up in the
19 wintertime.

20 Q Can you give me an idea, as best you can, when
21 this order came down from Bill Baumann?

22 A Years are a blur. I would put it in the
23 mid-70's, which could have been '74 to '76,
24 '77. Now I was laid off in '74 or '75 to '76,
25 so I'm saying it would probably have had to be

1 '76, '77, no later than '78 it seems that
2 those tanks were put out there. They were put
3 in with a shoot and the vacuum cleaner was
4 taken off there and dumped down there. Then a
5 trucking company would come in and vacuum it
6 out and haul it away.

7 Q Okay. Maybe I misunderstood you. The order
8 came from Mr. Baumann not to do anymore dumping
9 and you think that came --

10 A Mid to late-'70's, which would have been '77,
11 '76, '78, in there. Years are hard to -- I
12 don't even know when Bill worked there. I
13 guess if I had the details of these employees
14 in front of me, I could probably do a better
15 job of guesstimating when the said things
16 were.

17 Q Okay. Did your personal pouring occur before
18 or after Bill Baumann's directives?

19 A Before Bill's directives.

20 Q Okay. But you do have a distinct recollection
21 of someone named Bill Baumann coming in and
22 giving directives absolutely no dumping or
23 words to that effect?

24 A No more dumping. I guess that's why they put
25 the tanks in. All the oils were supposed to go

1 A The 55-gallon drum has a vacuum head on the top
2 and it's a steel vacuum drum at the very
3 bottom. Not underneath but at the very bottom
4 side we weld a pipe nipple, a two-inch pipe
5 nipple in there and we put a two-inch ball
6 valve with an elbow and that's how you empty it
7 out so you can get it down to about the last
8 gallon of the drum by opening a two-inch ball
9 valve and everything will rush out. You close
10 the ball valve, come back in and it's ready for
11 use again.

12 Q What's in this container?

13 A Whatever they pick off the floor. Die spray,
14 weigh lube, hydraulic fluids from the
15 reservoirs. If somebody would have happened to
16 have been using kerosene for polishing on a
17 die, there might be a little kerosene in it.
18 Whatever is on the floor it will pick up.

19 Q Okay. Are you saying that you saw somebody
20 open the spigot out --

21 A No. I'm saying they went out with the vacuum
22 and they came in with the vacuum empty, but I
23 didn't watch them open it up and dump it.

24 Q Okay. I think you also indicated something
25 about some stored drums that were stored

1 outside. Can you explain what you were talking
2 about there, please?

3 A What we in the past used to do would be to take
4 all the drums and as they got emptied out from
5 whatever was in them, die lubricant, plunger
6 lube, weigh lubricant for the machines,
7 hydraulics oils when they bought it in
8 55-gallon drums, kerosene for the steam
9 cleaner, whatever, when the drums would be what
10 we considered empty, and that's as far as you
11 could pump out with a pump, they were stored
12 outside.

13 They used to have no deposit on
14 them. Now all your drums have a deposit on
15 them or the bulk of them. We'd store them
16 outside all fall and winter. In the spring
17 when the weather got nice we would go out -- We
18 used a big Milwaukee drill. We had an electric
19 can opener. You'd hook it up to the drill, cut
20 the top off. You'd take the top of the drum
21 off. We'd take a big hammer that we welded a
22 point on and pound holes so we wouldn't have
23 moisture or water so we could put runners, bad
24 castings, sprews, into them, and whatever was
25 inside of those drums ended up being dumped

1 outside behind the maintenance area. It just
2 seeped into the gravel stones. These are
3 essentially more or less empty drums that still
4 have some remnants in them. There is always a
5 residual because the pumps don't pump all the
6 way down. They suck air when they get down to
7 the bottom.

8 Q But basically this is kind of when you're
9 trying to rehabilitate a drum, as it were?

10 A Right, and we still to this day utilize the
11 drums except for everything is done inside and
12 it's done where anytime a drum is turned over,
13 and the only ones we're using now are the
14 Chem-Trend 8515, we're using those, we tip them
15 over outside of our maintenance area but in the
16 building and we pick up the white chemical with
17 oil absorbant and shovel that up and then we
18 take a cutting torch and we blow holes in the
19 bottom instead of pounding them in. If you
20 pound them in, you put a dent in the inside and
21 water could still build in there. If you get
22 any water below the metal level, you will have
23 an explosion.

24 Q Okay. All of these procedures that you're --
25 these things that you described, you indicated

1 you personally dumped something. You believe
2 others may have dumped some remnants on the
3 ground. There's a possible opening of spigots,
4 possible --

5 A There was opening of the spigots of the vacuum
6 cleaner. They would take it outside on the
7 fork truck and it would be full when it went
8 out and it would be empty and put back into
9 service when it came back in.

10 Q Anyway, all these things that you described,
11 okay, did they end when Bill Baumann issued his
12 order?

13 A To the best of my knowledge, they were supposed
14 to cease and to stop. They were not supposed
15 to continue. I can't tell you that they never
16 did it after that. I can't tell you that
17 somebody doesn't do it now. I'm not
18 responsible and it's definitely no longer a
19 practice. Old habits die hard. I'm sure even
20 after the directive there is a possibility that
21 somebody still did it on second or third
22 shift. They always ran multiple shifts. You
23 don't have supervision on other shifts.

24 Q Is it fair to say you have no knowledge of any
25 of these practices going on after Bill Baumann

**MILWAUKEE DIE CASTING CO.,
SLYMAN INDUSTRIES, INC. and
THERESA A. SLYMAN**

V.

Defendant.

Judge Reynolds

VOLUME II

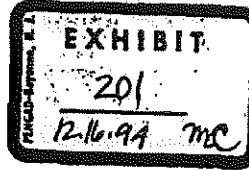
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PUBLIC RELATIONS DEPARTMENT
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MONSANTO CRITICIZES CONGRESSIONAL REPORT

ST. LOUIS, Oct. 3 -- Monte C. Throdahl, Monsanto Company's Senior Vice President for Environmental Policy, today criticized as "confusing, misleading and substantially inaccurate" a U.S. House of Representatives Environmental Subcommittee report which claimed that 250 waste disposal sites pose imminent peril to U.S. drinking water supplies.

Mr. Throdahl said the report, issued earlier this week by Representative Toby Moffett, D., Conn., "pursued short-term political gain at the cost of increased public misunderstanding of hazardous waste problems.

"It is a sad but increasingly typical example of how hastily collected, quick-and-dirty data can distort facts and exaggerate hazards," said Mr. Throdahl. "It may get a few votes come election time, but the price in terms of escalating public fears and confusion will be awesome.

"This kind of 'sky-is-falling' scare tactic serves only to distract the many dedicated government and industry scientists who are trying to work together on solutions to the real problems involved with waste disposal."

Backing up his charges, Mr. Throdahl referenced EPA Administrator Douglas M. Costle's letter of transmittal which accompanied the submission of the data to the Subcommittee. Mr. Costle wrote that the report was never intended to permit

-more-

MP001688

conclusions and that much of the information was secondhand and not possible to verify. The Administrator also asked that any use of the data be closely controlled and urged that all appropriate "cautions and qualifying phrases" be clearly stated -- advice largely ignored by Representative Moffett.

Mr. Throdahl said the Subcommittee report also referred to the sites incorrectly as "waste disposal sites" when, in fact, they are "surface impoundments." These he described as ponds and lagoons commonly used by industrial complexes and municipal sewage treatment facilities to collect and hold treated waste water prior to final disposal.

Mr. Throdahl was particularly critical of the inclusion of Monsanto's St. Peters, Mo., site on the list. He explained that the site in question is a "polishing lagoon" used to hold waste water after it has been cleaned and before it is discharged into the Missouri River.

"The site does not contain hazardous waste by any Federal or State definition. It is separated from potential ground water supplies by a layer of low permeable clay-type soil ranging in thickness from 25 feet to 38 feet," Mr. Throdahl said. He added that the water in this polishing pond is routinely checked for quality as is the well some 80 feet below ground that supplies the plant's drinking water.

"There has never been any indication of a water quality problem at the St. Peters plant in its 20 years of operation," he said.